A flag state assessment of compliance and enforcement of the Maritime Labour Convention, 2006 in Saint Vincent and the Grenadines

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A FLAG STATE ASSESSMENT OF COMPLIANCE AND ENFORCEMENT OF THE MARITIME LABOUR CONVENTION, 2006 IN SAINT VINCENT AND THE GRENADINES

By

Tyson W. Haynes

Saint Vincent and the Grenadines

A dissertation submitted to the World Maritime University in partial fulfilment of the requirement for the award of the degree of

MASTER OF SCIENCE

In

MARITIME AFFAIRS

(MARITIME SAFETY AND ENVIRONMENTAL ADMINISTRATION)

2019

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DECLARATION

I certify that all the material in this dissertation that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

The contents of this dissertation reflect my own personal views, and are not necessarily endorsed by the University.

(Signature): ...

(Date): 24th September 2019

Supervised by: Professor Raphael Baumler

World Maritime University
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I thank Mr. Jack Hutchings, Mrs. Ereen Archibald and Mrs. June Russell for their time and support to facilitate the completion of my dissertation.
ABSTRACT


Degree: Maters of Science

The purpose of this dissertation is to assess how Saint Vincent and the Grenadines carry out flag State compliance monitoring and enforcement pursuant to Regulation 5.1 of the Maritime Labour Convention, 2006, as amended.


To evaluate how Saint Vincent and the Grenadines implements its flag State obligations, the national regulations are compared to the requirements of the MLC, 2006, in particular Regulation 5.1

In addition to comparing the national regulations with the MLC, 2006, verification of practical implementation is investigated by: (1) assessing recognised organisations agreements; (2) examining complaints received from seafarers; (3) analysing external data and other sources.

The assessment of Saint Vincent and the Grenadines capacity to comply with Regulation 5.1 of the Maritime Labour Convention, 2006, as amended, shows that some adjustments are required to the national regulations for full compliance.

The results of the assessment revealed that most deficiencies are related to Regulation 5.1.4, followed by Regulation 5.1.3, than 5.1.1, 5.1.2 and 5.1.6. Recommendations are made to help Saint Vincent and the Grenadines remedy its weaknesses in compliance monitoring and enforcement pursuant to Regulation 5.1 of the Maritime Labour Convention, 2006, as amended.

Key words: Assess, Flag State, Compliance Monitoring and Enforcement, National Regulations and Regulation 5.1,
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<tr>
<td>Casualty Investigation Code</td>
<td>Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident</td>
</tr>
<tr>
<td>CME</td>
<td>Compliance Monitoring and Enforcement</td>
</tr>
<tr>
<td>CIC</td>
<td>Concentrated Inspection Campaign</td>
</tr>
<tr>
<td>DMLC</td>
<td>Declaration of Maritime Labour Compliance</td>
</tr>
<tr>
<td>EEZ</td>
<td>Exclusive Economic Zone</td>
</tr>
<tr>
<td>FOC</td>
<td>Flag of Convenience</td>
</tr>
<tr>
<td>GISIS</td>
<td>Global Integrated Shipping Information System</td>
</tr>
<tr>
<td>GT</td>
<td>Gross tonnage</td>
</tr>
<tr>
<td>HLTWG</td>
<td>High-level Tripartite Working Group</td>
</tr>
<tr>
<td>HSC</td>
<td>Convention on the High Seas, 1958</td>
</tr>
<tr>
<td>IACS</td>
<td>International Association of Classification Societies</td>
</tr>
<tr>
<td>III Code</td>
<td>IMO Instruments Implementation Code</td>
</tr>
<tr>
<td>ILC</td>
<td>International Labour Conference</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organization</td>
</tr>
<tr>
<td>IMO</td>
<td>International Maritime Organization</td>
</tr>
<tr>
<td>ITF</td>
<td>International Transport Workers’ Federation</td>
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<tr>
<td>MLC</td>
<td>Maritime Labour Certificate</td>
</tr>
<tr>
<td>MLC, 2006</td>
<td>Maritime Labour Convention, 2006</td>
</tr>
<tr>
<td>MOU</td>
<td>Memoranda of Understanding</td>
</tr>
<tr>
<td>Acronym</td>
<td>Description</td>
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<tr>
<td>NORMLEX</td>
<td>Information System on International Labour Standards</td>
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<td>OECD</td>
<td>Organization for Economic Coordination and Development</td>
</tr>
<tr>
<td>Paris MoU</td>
<td>Paris Memorandum of Understanding on Port State Control</td>
</tr>
<tr>
<td>PSC</td>
<td>Port State Control</td>
</tr>
<tr>
<td>RO</td>
<td>Recognised Organizations</td>
</tr>
<tr>
<td>Recommendation 108</td>
<td>Social Conditions and Safety (Seafarers) Recommendation</td>
</tr>
<tr>
<td>RO Code</td>
<td>Code for Recognised Organization Resolution MSC.349 (92)</td>
</tr>
<tr>
<td>SOLAS</td>
<td>International Convention for Safety of Life at Sea, 1984 as amended,</td>
</tr>
<tr>
<td>SVG</td>
<td>Saint Vincent and the Grenadines</td>
</tr>
<tr>
<td>Shipping Act, 2004</td>
<td>Saint Vincent and the Grenadines Shipping Act, 2004</td>
</tr>
<tr>
<td>Shipping Regulations, 2017</td>
<td>Shipping (Maritime Labour Convention) Regulations, 2017</td>
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1. INTRODUCTION

1.1. Background

The International Labour Organization (ILO) is the only tripartite organization under the United Nations agency which brings together representatives from governments, employers and workers from its 187 member States (ILO, 2019). Its main focus is to develop policies, set standards and devise programmes that promote decent work for both men and women (International Labour Organization, 2017).

The ILO recognised that the work of seafarers and shipowners was different from regular land-based work; for they were the most fluid and widespread workforce globally (McConnell, Devlin, & Doumbia-Henry, 2011). The ILO also recognised that the working and living conditions for seafarers needed to be regulated. As such, a number of conventions were developed as listed in Article X of the Maritime Labour Convention, 2006, as amended (Doumbia-Henry, Devlin, & McConnell, 2006).

Many of the conventions were not ratified by governments nor did they enter into force. The lack of enforcement can be attributed to the fact that the conventions were numerous and cumbersome which posed a challenge for governments to integrate in their national regulations. Thus, the vast majority became outdated and did not reflect contemporary working and living conditions aboard ships as they did not advance with the development of the shipping industry (ILO, 2015). Nonetheless, the ILO continued its focus on improving standards and nature of inspections of seafarers working and living conditions (Boisson, 1999).
A new convention was envisioned and developed by the ILO to incorporate as many of the existing maritime labour standards as possible with relevant updates (Arrigo & Casale, 2017).

In 2001, the ILO’s decision to proceed with the compilation of the Maritime Labour Convention, 2006 (MLC, 2006) was as a result of a joint resolution by the representatives of the international seafarers’ and ship-owners’ organisations, which was later supported by governments. The organisations argued that the shipping industry is “the world’s first genuinely global industry” which “requires an international regulatory response of an appropriate kind – global standards applicable to the entire industry” (ILO, 2015).

Shipowners argued that the uneven ratification of many existing ILO maritime conventions, by members States, created an avenue for unfair competition and a burden on shipowners of ratifying States (Blanck, 2006).

Seafarers alike, were in favour of a consolidated ILO maritime convention as it offered an opportunity to obtain a higher ratification and better working and living conditions on-board ships (Blanck, 2006).

Furthermore, the shipping industry needed a more effective and compliant international labour standard to facilitate the elimination of substandard shipping on an international level. (ILO, 2015).

Therefore, the ILO tripartite constituents held six years of intensive and extensive consultations and international meetings, which give rise to the adoption of the Maritime Labour Convention, 2006 (also referred to as the Convention in this paper) at the 10th Maritime Session and 94th ILC of the ILO in Geneva, Switzerland, under article 19 of its constitution on 23rd February 2006.

On 20th August 2012, the Convention achieved the minimum required ratification of 30 member State which represented 33% of global merchant ship gross tonnage (McConnell M. L., 2011). It entered into force on 20th August 2013 (Doumbia-Henry, Devlin, & McConnell, 2006).
The MLC, 2006 not only outlines seafarers’ rights to decent conditions of work but it also strives to create the conditions for fair competition among shipowners. It is intended to fulfil the HLTWG objectives to be globally applicable, understandable by all, easily updatable and uniformly enforced (ILO, 2015).

It is described as the fourth pillar of the international regulatory regime complementing the International Maritime Organization (IMO) major conventions; Safety of Life at Sea, 1974, as amended (SOLAS); International Convention for the Prevention of Pollution from Ships, 73/78, as amended (MARPOL); and the International Convention on Standard of Training, Certification and Watchkeeping for Seafarers, 1978 as amended (STCW) (McConnell M. L., 2011).

Article 94 of the United Nations Convention on the Law of the Sea, 1982 (UNCLOS), provides the foundation for labour and social conditions which are covered in the Convention. As such, it is usually referred to as the Seafarers’ Bill of Rights as it sets the framework for a level playing field for all parties in one of the most competitive global industries (Doumbia-Henry, McConnell, & Devlin, 2017).

### 1.2. Development of the MLC, 2006 in SVG

Saint Vincent and the Grenadines (SVG) (also referred to as the Administration in this paper) deposited its instrument ratification of the MLC, 2006 on 9th November 2010, which made it the eleventh maritime State to ratify the Convention (Saint Vincent and the Grenadines Maritime Administration, 2010).

At the time of ratification, Saint Vincent and the Grenadines had over 2,600 ships and 17,500 seafarers that were subject to comply with the Convention. Additionally, there were over 3,200 Vincentian nationals working on foreign ships worldwide (ILO, 2018).
Developments of MLC, 2006 regulations in SVG

The Saint Vincent and the Grenadines Shipping Act, 2004 (Shipping Act, 2004) provides the legal framework for all maritime-related issues, including maritime labour conditions. However, the maritime labour conditions embedded in the Shipping Act, 2004 were inadequate and did not comply with the MLC, 2006.

The obligatory requirements of the Convention meant that Saint Vincent and the Grenadines had to develop and implement new strategies to be compliant, including:

1. amending the Shipping Act, 2004 to comply with the requirements of the Convention;
2. develop new procedures on the implementation and enforcement of the convention; and
3. authorise recognise organisations (RO) to carry out MLC, 2006 inspection and certification;

Passing of new MLC, 2006 regulations

Although the Administration had ratified the Convention three years prior to it entering into force, the Convention was not integrated into its national laws until 8th August 2017, almost seven years later. This was as a result of the long tedious process which the Shipping Act, 2004 had to go through to be amended to incorporate the MLC, 2006.

The amendment that gives legal authority to the Convention is known as the “Shipping (Maritime Labour Convention) Regulations, 2017” (Shipping Regulations, 2017).

In relation to Title 5 of the Convention, the Shipping Regulations, 2017 cover areas under subheadings: (1) recognised organisations; (2) certificates; (3) complaints; and (4) port state control (Saint Vincent and the Grenadines, 2017).
Development of MLC, 2006 procedures and requirements

In 2013, the Administration developed Circular N° MLC 005, which covered “food, water and careering requirements including qualification of ship’s cook and catering staff.” It is intended to provide recognised organisations (RO), shipowners and other interesting parties on the procedure and requirement for the implementation of Title 4 of the Convention (Saint Vincent and the Grenadines, 2013).

In 2015, the Administration developed Circular N° MLC 007, which provide ROs, shipowners, seafarers and other interested parties with guidelines for MLC, 2006 inspection for ships of less than 500 gross tonnage (GT) (Saint Vincent and the Grenadines, 2015).

In 2017, the Administration produced Circular N° MLC 008, which entitled “Amendments of 2014 to the Maritime Labour Convention, 2006.” The circular is intended to provide interested parties with the requirements for implementation and enforcement of Regulations 2.5 of the Convention. (Saint Vincent and the Grenadines, 2017).

The development of the various circulars helps the Administration to effectively and efficiently discharge its obligations under the MLC, 2006.

1.3. Objectives and research questions

Following the background information in section 1.2, there is a need to assess the Administration’s implementation and enforcement of its obligations pursuant to the Convention. Therefore, this research is tailored to assess the flag State compliance monitoring and enforcement of the Maritime Labour Convention, 2006 in Saint Vincent and the Grenadines.

The research will focus on Regulation 5.1 – flag State responsibilities to analyse the following questions:
1. How did the flag State implement the Convention?
2. How did the flag state organise implementation of the convention?
3. What is the system of inspection and certification of maritime labour conditions?
4. How are recognised organisations (ROs) authorised by the Administration?
5. How does the flag State respond to on-board complaints?
6. How does the flag State investigate marine casualties?

1.4. Summary

The Convention was develop by the ILO to regulate the Labour Conditions on-board ships and to set a level playing field for all parties. It entered into force on 20th August 2013 after obtaining the minimum requirements.

Nearly 7 years after the Administration had ratified the Convention, the Shipping Act, 2017 was amended to integrate the MLC, 2006 into the legal framework. Thus, compliance monitoring and enforcement (CME) of Regulation 5.1 of the Convention is assessed in this paper.
2. REVIEW OF THE MARITIME LABOUR CONVENTION, 2006

2.1. Composition of the MLC, 2006

The MLC, 2006 is made up of 36 Conventions and one Protocol, which are listed in Article X of the Convention. It is arranged into three main parts: the Articles, the Regulations and the Codes (ILO, 2015).

The Articles and Regulations outline the core rights, principles and basic obligations for the Member State. Changes to the Articles and the Regulations can only be done by the Conference as required pursuant to Article 19 of the ILO Constitution (International Labour Organization, 2009).

The Code provides details for the implementation of the MLC, 2006. It is made up of two parts: Part A (mandatory) and Part B (non-mandatory). Part A and Part B are arranged and linked together according to subject matter under each Title of the Convention (Blanck, 2006).

Amendments to the Code can be done easily through a simplified procedure outlined in Article XV of the Convention (Blanck, 2006). Any amendments to the Code must remain within the general scope of the Articles and Regulations (McConnell, Devlin, & Doumbia-Henry, 2011).

The Regulations and the Codes are arranged under five Titles as shown in Figure 1. The authors McConnell, Devlin and Doumbia-Henry, (2011) claimed in their book that “the
organizational structure of the MLC, 2006 can be described as a cascade of increasing specificity and flexibility and levels of obligation.”

<table>
<thead>
<tr>
<th>Title 1. Minimum requirements for seafarers to work on a ship</th>
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<td>Regulation 1.1—Minimum age</td>
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<td>Regulation 2.5—Repatriation</td>
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<td>Regulation 2.6—Seafarers’ compensation for the ship’s loss or foundering</td>
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<td>Regulation 2.7—Manning levels</td>
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<tr>
<td>Regulation 2.8—Career and skill development and employment opportunities for seafarers</td>
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<thead>
<tr>
<th>Title 3. Accommodation, recreational facilities, food and catering</th>
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<tr>
<td>Regulation 3.1—Accommodation and recreational facilities</td>
</tr>
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<td>Regulation 3.2—Food and Catering</td>
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<th>Title 4. Health protection, medical care and social security protection</th>
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<td>Regulation 4.2—Shipowners’ liability</td>
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<td>Regulation 4.3—Health and safety protection and accident prevention</td>
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<tr>
<th>Title 5 Compliance and Enforcement</th>
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<td>Appendix B5-I—Appendix B5-I—Example of a national Declaration (Parts I and II)</td>
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Figure 1: Titles and appendices of MLC, 2006
Source: (McConnell, Devlin, & Doumbia-Henry, 2011)
This layout and terminology, particularly the guidelines, differs from ILO’s earlier instruments. Thus, the MLC, 2006 contains a combination of both hard and soft laws formulations and approaches in a single instrument (McConnell, Devlin, & Doumbia-Henry, 2011).

2.2. Overview of Title 5

The provisions of Title 5 are typically based on existing maritime Conventions such as: the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147); IMO Conventions; and regional port State control agreements. Title 5 is built upon these existing conventions and is developed to effectively approach important issues which are consistent with other international maritime Conventions for standards of quality shipping, including; safety of ships, security and marine environmental protection (ILO, 2015).

Title 5 covers three main areas of responsibilities for compliance and enforcement which a ratifying member State has to comply with. The responsibilities are categorised under three main sub-regulations, which are: (1) Flag State responsibilities; (2) Port State responsibilities; and (3) Labour–supplying responsibilities (ILO, 2018). For the purpose of this paper, only Flag States responsibilities will be discussed.

2.3. General Principles for Flag State Compliance

Regulation 5.1.1 lays the basic framework for the detailed provisions contained in the succeeding regulations. (McConnell, Devlin, & Doumbia-Henry, 2011). It reminds flag State that it is their responsibility to ensure that the Convention is implemented and enforced on-board their ships through an effective system for inspection and certification. The system should ensure the working and living conditions on-board their ships meet and sustain the standards outlined in the Convention (ITF, 2015).
The Convention permits flag State to delegate all or part of its responsibilities to ROs in an effort to help the Member State to discharge its obligations. Nonetheless, the flag State still has the overarching responsibility to ensure its ships are compliant (McConnell, Devlin, & Doumbia-Henry, 2011).

2.4. Recognised Organisation

Regulation 5.1.2 echoes general practices in the maritime sector and builds upon predecessor found in the ILO Convention. Additionally, it surpasses the IMO instruments for the delegation of authority, as recalled in the Code for Recognised Organizations (RO Code), resolution MSC.349 (92) (McConnell, Devlin, & Doumbia-Henry, 2011).

A flag State is required to:

i. specify the RO’s scope of duties with respect to verification of national requirements;

ii. supply the ILO with a list of ROs and information for the oversight of its ROs, which should include procedures for communication with ROs;

iii. investigate complaints; and

iv. make available ROs role and scope of authorisation to seafarers in the event of a complaint

2.5. Maritime labour certificate and declaration of maritime labour compliance

Although all ships are required to be inspected as per the MLC, 2006, the Convention only requires ships of 500 GT and over, engaged in international voyages to carry a Maritime Labour Certificate (ML-Certificate) and Declaration of Maritime Labour Compliance (DMLC) to be carried on-board. Shipowners to which the Convention is
not mandatory have the right to request a Certificate following an inspection (McConnell, Devlin, & Doumbia-Henry, 2011).

The Convention requires the ML-Certificate:

- to be issued by the competent authority or an authorised RO, following a satisfactory inspection of the 16 areas in Appendix A5-I as detailed by the flag State’s national requirements, and
- to be valid for a period not exceeding five years and must be accompanied by a DMLC for it to maintain its validity;

The ML-Certificate and the DMLC must be posted on board the ship where it is available to every seafarer and copies should be made available on request of interesting parties (International Labour Organization, 2009).

2.6. Inspection and Enforcement

Regulation 5.1.4 is focused on the inspection process and flag Stat inspectors. It addresses all ships and requires each Member to establish an effective system for inspection and certification. The system should be coordinated and monitored by the flag State to ensure it ships comply with the Convention and national regulations. This elaborates the principles of Regulation 5.1.1 paragraph 2. (Doumbia-Henry, McConnell, & Devlin, 2017)

2.7. On-board Compliant Procedures

Regulation 5.1.5 provides three prongs to ensure ongoing compliance at the shipboard level which obligate the flag State to receive, investigate and respond to complaints (Doumbia-Henry, McConnell, & Devlin, 2017).

The ILO, (2016) recalls that the Convention requires flag States to:
• develop a fair, effective and expeditious procedures for seafarers’ handling complaints;
• prohibit and penalize any form of victimization of seafarers for lodging a complaint;
• permit the seafarer to seek legal redress, without prejudice, through any means

2.8. Summary

The Convention is arranged into three main parts: the Articles, the Regulations and the Codes. The Articles and Regulations outline the core rights, principles and basic obligations while the Code provides details for the implementation.

The responsibilities for flag State compliance and enforcement are spread over 6 regulations which regulates the inspection and certification system and on-board complaint requirements.
3. COMPLIANCE MONITORING AND ENFORCEMENT IN THE MARITIME INDUSTRY

3.1. A general overview of Compliance Monitoring and Enforcement

Compliance is the ability to get a regulated sector to fully implement its obligatory requirement. Efforts to encourage and compel behavioural changes are usually required to achieve compliance. Compliance takes place when requirements are met and desired changes are achieved (Bhardwaj, 2014).

Monitoring entails collection and analysis of information on the compliance status of a particular regulation. It is essential to detect and correct violations, provide evidence to support enforcement action and to evaluate and establish compliance status through programmes (Bhardwaj, 2014).

Enforcement is an action taken by governments or relevant parties to achieve compliance. It discourages violators from breaching the regulations and sets a level playing field for all and can be achieved through but not limited to the following (Bhardwaj, 2014):

I. Inspection – to examine compliance status and violations detection;
II. Legal action – to enforce compliance and impose penalties for violation; and
III. Compliance awareness – provide technical assistance and educational programmes.
3.2. Compliance Monitoring and Enforcement in the Maritime industry

Compliance monitoring and enforcement (CME) is important in the maritime industry as it helps to enhance the quality of shipping, reinforce the credibility of international regulations, and set a level playing field for all (Bhardwaj, 2014). The IMO Instruments Implantation Code (III Code) lays down the requirement of CME in the maritime industry with respect to flag State, port State and coastal State (IMO, 2013).

3.3. IMO Instruments Implementation Code

The III Code was developed to help States effectively implement mandatory requirements and to evaluate its performance with regards to processes, procedures and resources necessary to discharge its obligations. The objective of the III Code is to improve global maritime safety and marine environmental protection while assisting States in the implementation of IMO’s instruments. It seeks to address matters regarding:

i. Safety of life at sea;
ii. Marine pollution prevention form ships;
iii. Standards of training, certification and watchkeeping for seafarers;
iv. Load lines;
v. Ship tonnage measurement
vi. Regulations on collisions prevention at sea (IMO, 2013)

Although the III Code outlines what is required by a State to be effective at CME, it is recommended that States discharge certain functions to achieve the objectives of the Code, such as:

1. The development of an overall strategy which meets its international obligations and responsibilities as a flag State, Port State and Coastal State;
2. The establishment of a system to monitor and assess the effectiveness of the strategy used to implement and enforce international mandatory instruments; and
3. The continuous review of its strategy to achieve, maintain and improve optimal performance and capability as flag State, port State and Coastal State (IMO, 2005).

3.4. Notion of Flag States

The notion of flag state was introduced through the evolution of the customary practice of ships to use a State’s flag as a means of identification and symbol of nation States. Today, a flag has become an officially sanctioned and a very powerful symbol of the State and is used as visible evidence of the nationality of a ship conferred by State upon registration under national law (Mansell, 2009).

The term flag State refers to the country where a ship is registered and/or the country whose flag the ship is flying. Under international law the flag State is the government that has authority and responsibility for regulating ships and the conditions on board ships that fly its flag, no matter where they travel in the world (ILO, 2015).

A stateless ship is not protected under international law and is not legally permitted to engage in trade, such a ships may be denied entry into ports and liable for seizure (Coles & Watt, 2002).

Article 94, paragraph 1 of UNCLOS places the responsibility on the flag State to “effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.” It also established the foundation for flag States to discharge certain duties and obligations for ships with respect to labour conditions, crewing and social matters.
3.4.1. Flag State obligations and its role under III Code Implementation

States may view the III Code according to their own circumstances, as some states may have a greater role than others in either flag State, port State or coastal State duties. The III Code requires flag States to develop policies for implementation and enforcement of safety and pollution prevention through national laws and guidance. The policies should be updated and revised by an assigned representative(s) of the Administration. Flag States should also have the capacity to administer safety and environmental protection programme and ensure its ships are sufficiently and efficiently manned (IMO, 2013).

IMO, (2013) recalls that:

- flag States may grant authorisation to RO to conduct statutory work on its behalf to ensure it ships comply with international conventions and national legislations but it is the flag State responsibility to implement measures to ensure that its ships are compliant;
- personnel performing flag State surveys are required to have the requisite qualifications and training to perform his/her duty; and
- evaluation of performance as it relates to the implementation of administrative processes, procedures and resources to obtain its obligations of international instruments should be done on a periodic basis.

3.4.2. Flag State requirements embedded in the MLC, 2006

Member States are responsible for integrating the provisions of the MLC, 2006 into their national law to give legal effect to the requirements of the Convention. This empowers the State to determine and take actions necessary to ensure that decent working and living conditions for seafarers’ on-board their ships meet the requirements of the Convention (ILO, 2013).

Under the Convention, a flag State can make determinations and exercise flexibility to respond to a specific situation in the country. Such determinations are made by the
competent authority and may require consultation with the shipowner and seafarer organisations (International Labour Organization, 2009).

Nevertheless, certain actions are required to be taken at a more practical level to support the implementation of national requirements on ships, including (International Labour Organization, 2009):

- the appointment of flag State inspectors and/or recognised organizations to perform some flag State tasks on its behalf;
- the issuance, renewal and withdrawal of the ML-Certificate and completion of the DMLC part I;
- the respond to requests for ship information from port State control authorities;
- the inspection, monitoring and other control measures;
- the respond to seafarers complaints; and
- necessary enforcement actions taken-where ships fail to comply with the requirements as per the Convention.

The international supervisor system under the Constitution of the International Labour Organization determines whether or not a country has properly implemented its obligations as per the MLC, 2006.

### 3.5. ILO Supervisory System

As with any ILO instruments, there is an obligation by the Member State to report the CME on conventions (both ashore and on ships). At the national level, reporting has always been a concern for the ILO. As such, the ILO developed supervisory functions currently recorded in Article 22 of the ILO Constitution and Title 5 under the MLC, 2006.

The origin of such functions are provided under Article 408 of the Treaty of Versailles, where Members agree to report annually to ILO on the measures taken to give effect to
the provisions of conventions to which they are party (McConnell, Devlin, & Doumbia-Henry, 2011).

Article 22 of the ILO’s Constitution requires each Member that is party to a convention to report in a similar manner as with Article 408 of the Treaty of Versailles. Therefore, ratifying Members of the MLC, 2006 are required to report annually on the measures taken to give effect to the Convention (McConnell, Devlin, & Doumbia-Henry, 2011).

3.6. METHODOLOGY

The qualitative method will be used to assess how Saint Vincent and the Grenadines carry out flag State CME pursuant to Regulation 5.1 of the MLC, 2006.

The qualitative method is used as the research analyse the national regulations, procedures and RO agreements for compliance with Regulation 5.1 of the MLC, 2006. It also assesses external sources which illustrates how effective CME of the MLC, 2006 is carried out in Saint Vincent and the Grenadines.

To ascertain Saint Vincent and the Grenadines compliance with Regulation 5.1 of the MLC, 2006, the national regulations will be compared and contrasted to the requirements of the MLC, 2006.

RO agreements will also be assessed for consistency and compliance with the requirements of Regulation 5.1 of the Convention.

The researcher will work closely with the Department of Maritime Administration, which includes the Kingstown office and the Geneva/Monaco office, to gather data relating to seafarers complaints from 2013 to 2018. The complaints will be analysed to identify the areas where improvements can be made to strengthen the overall CME of the Convention.

The statistics from Global Integrated Shipping Information System (GISIS) and the ILO reported incidents of abandonment of seafarers and ships will be assessed to determine
how the Administration is satisfying and responding to its reporting requirements of the convention.

The findings are then discussed and recommendations are provided to help the Administration improve its CME functions as required by the Regulations 5.1 of the Convention.

### 3.7. Summary

The III Code lays down the requirement of CME in the maritime industry with respect to flag State, port State and coastal State. CME is important in the maritime industry as it helps to enhance the quality of shipping, reinforce the credibility of international regulations, and set a level playing field for all.

The basic principles of CME pursuant to the Convention are embedded in the III Code. The difference is that the III Code was designed to facilitate effective CME of IMO conventions while CME of the Convention is geared toward improving the labour conditions on-board ships.
4. SVG CME OF THE MLC, 2006

4.1. ILO Monitoring system

The duties and responsibilities for the implementation of the MLC, 2006 in Saint Vincent and the Grenadines are shared between three main entities, namely the Department of Maritime Administration, the Department of Labour and the National Insurance Services.

The Department of Maritime Administration has the responsibility for administering the inspection and certification system while the Department of Labour has the responsibility for the rights and wellbeing of workers whereas the National Insurance Services has the responsibility for providing social security services for workers.

*Article 22 reporting responsibilities*

Both the Department of Maritime Administration and the Department of Labour have the responsibility to coordinate and complete the Article 22 reports as required by the ILO Constitution. The ILO Constitution mandates its Members to submit an annual report on the measures taken to give effect to the provisions of the Convention, such as national laws and other CME systems.

As of today, the departments have not been complying in reporting as required. The Department of Maritime Administration stated that in 2015, an attempt was made to
report as per Article 22; however, the report was rejected by ILO for not meeting the minimum requirements.

The Information System on International Labour Standards (NORMLEX) displays Saint Vincent and the Grenadines MLC, 2006 reporting status as “out of cycle (first report not received).”

Other implementation responsibilities

As previously stated, the Administration has not only to demonstrate compliance to ILO but also to implement the regulations related to MLC, 2006 on its fleet. Therefore, Saint Vincent ant the Grenadines developed regulations as presented in following chapters.

4.2. General Principles embedded in national regulation related to the MLC, 2006

The Shipping Act, 2004 provides the legal framework for all maritime-related issues including CME matters.

The Shipping Act, 2004 was amended to include the Shipping Regulations, 2017, which deals specifically with matters pertaining to the MLC, 2006.

Schedules 17, 18, and 19 of the Shipping Regulations, 2017 provide standards for: (1) recognised organisations; (2) certification; and (3) complaints.

In addition to the Shipping Regulation 2017, the Administration has developed specific procedural guidelines for effective CME, which are found in Circular N° MLC 002, (see appendix 2).

Circular N° MLC 002 is made mandatory under Regulation 7(5) of the Shipping Regulations, 2017. The Circular provides details and serves as a tool to clarify the
Shipping Regulations, 2017, to all parties involved in the implementation of the MLC, 2006: (1) the Administration; (2) the shipowner(s); and (3) recognised organizations.

The Administration strives to fulfil its enforcement obligations pursuant to Regulation 5.1.1 paragraphs 2 and 3 of the Convention, through its national law, procedural guidelines and its agreement with ROs to conduct MLC, 2006 inspection and certification on its behalf.

See Figure 2 for an illustration of the MLC, 2006 legal framework.
4.2.1. Purpose of National Regulation

Regulation 4 of the Shipping Regulations, 2017 states that the purpose of the national regulation is to ensure that every seafarer has the right to:

i. “a safe and secure workplace that complies with safety standards;
ii. fair terms of employment;
iii. decent working and living conditions on-board ship; and
iv. health protection, medical care, welfare measures and other forms of social protection” (Saint Vincent and the Grenadines, 2017)

This regulation is inline and comply with the ILO requirements enacted in Article IV of the MLC, 2006.

Regulation 7 of Shipping Regulation 2017 recalls the need for shipowners to comply with national regulations in order to ensure decent living and working conditions on-board the national fleet. Regulations 9, 10, 11 and 12 recalls the sanctions applicable in case of violation.

The Shipping Regulations, 2017 are made available to all ROs, shipowners, seafarers and the public via the Administration’s website in Section 10 of Circular N° MLC 002.

4.2.2. Application of National Regulations

Regulation 3(1) of the Shipping Regulations, 2017, states that the national regulations apply to:

i. all seafarers;
ii. all ships, whether publicly or privately owned, ordinarily engaged in commercial activities;
iii. every shipowner who engages seafarer recruitment and placement services operated in, or provided from a country outside Saint Vincent and the Grenadines

Regulation 3(2) states that the national regulation does not apply to “warships, naval auxiliaries or other ships owned or operated by the Government of Saint Vincent and the Grenadines on non-commercial service” (Saint Vincent and the Grenadines, 2017).

Title 2 of Circular N° MLC 002 further states that the regulation does not apply to:

i. ships navigating exclusively in inland waters or waters within or closely adjacent to, sheltered waters or areas where port regulations apply
ii. fishing vessels; and

iii. ships of traditional build

The above regulations serves to fulfil and to comply with Article II (2) and (4) of the MLC, 2006.

4.2.3. National Maritime Tripartite Committee

In 2010, the Administration established the National Maritime Tripartite Committee of Saint Vincent and the Grenadines, which comprised of shipowners, seafarers and representatives of governmental maritime agencies (Saint Vincent and the Grenadines Maritime Administration, 2010).

The establishment of a national maritime tripartite committee is in line and comply with Article VII of the convention. This avoids the Administration having to consult the ILO special tripartite committee for matters pertaining to derogation, exemption or other flexibility of the Convention as the National Maritime Tripartite Committee can be consulted for such matters.

4.2.4. Exceptions and Exclusions

Regulation 5(1) of the Shipping Regulations, 2017, empowers the Administration to, after consultation¹, exempt ships of less than 200 gross tonnages not engaged on international voyages from all or any of the requirements of the convention.

Title 3 of Circular N° MLC 002 serves to clarify Regulation 5(1). It specifically states that ships of less than 200 GT may be exempted from the regulations pursuant to Title 3 of the Convention, as it relates to the requirements for accommodation.

¹ Such consultations will be done by the National Maritime Tripartite committee stated in 4.2.3 of this paper
Regulation 5(1) of the Shipping Regulations, 2017 comply with Article II (6) of the MLC, 2006.

4.2.5. Procedures to assess objectives and standards

Standard A5.1.1 paragraph 1 of the Convention requires the Administration to have clear objectives and standards for inspection and certification, as well as adequate procedures to assess the attainment of its objectives and standards.

The Shipping Regulations, 2017 and Circular N° MLC 002 provides clear objectives and standards for inspection and certification. However, there is no procedure in place to assess the attainment of its objectives and standards.

While the Administration complies with the requirement of have clear objectives and standards for administering inspection and certification, it does not comply with the requirement to have procedures to assess the attainment of its objectives and standards.

4.2.6. On-board copy of the Convention

Standard A5.1.1 paragraph 2 of the Convention requires the Administration to ensure its ships have a copy of the Convention on-board.

The Administration does not comply with this requirement of Standard A5.1.1 paragraph 2 of the Convention as there is no regulation that requires shipowners to have a copy of the convention on-board.

Other enforcement measures

As mentioned earlier, the Administration has entered into agreements with ROs to fulfil its responsibilities pursuant to Regulation 5.1.1 paragraph 3 of the Convention. Such agreements compensate for the lack of sufficient and qualified inspectors available in
the Department of Maritime Administration to fulfil its obligatory requirement as per Standard A5.1.4 paragraph 2 of the Convention.

4.3. Authorisation and function of Recognised Organisation

Recognised Organisations play a critical role in the inspection and certification of Saint Vincent and the Grenadines ships. According to 4.1 of Circular N° MLC 002 and the total number of RO agreements available, there are 16 ROs that are authorised to carry out MLC, 2006 inspection and certification.

4.3.1. Authorisation of Recognised Organisation

Schedule 17(a) of the Shipping Regulations, 2017, empowers the Administration to authorise members of the International Association of Classification Societies (IACS) as recognised organisations to conduct MLC, 2006 inspection and certification on its behalf.

Schedule 17(a) only permits the Administration to authorise members of IACS as ROs. However, to allow the Administration to have a worldwide coverage of MLC, 2006 inspection and certification, Schedule 17(b) empowers the Administration to authorise other ROs and enter into an agreement with them.

Schedule 17(a) and 17(b) of Shipping Regulations, 2017 serve to fulfil and comply with Regulation 5.1.2 paragraph 2 of the Convention, as it relates to the authorisation of ROs to carry out inspection and certification.
Template for RO agreements

The Administration has developed an RO agreement template which it uses when entering into an agreement with ROs. The template is based on the requirements of Appendix 3 of the RO Code.

4.3.2. Elements embedded in the RO agreement

Part 2 of the RO Code requires the Administration to enter into a formal agreement with its ROs, while Guideline B5.1.2, paragraph 3 of the Convention provides recommendations on what should be included in the RO agreement.

As it relates to ROs having a written agreement to carry out MLC, 2006 inspection and certification, the legal framework in Schedule 17(a) and 17(b) also serve to fulfil and comply with the Part 2 of the RO Code.

The RO agreements are also in line with Guideline B5.1.2 paragraph 3 as they contain the recommended elements stated.

4.3.3. Assessment of RO’s Competency and Independence

Schedule 17(a) of the Shipping Regulations, 2017 empowers the Administration to enter into an agreement with IACS members after it “has satisfied itself of their capability as required by Regulation 5.1.2.”

Schedule 17(a) of the Shipping Regulations, 2017 fulfil and complies with Standard A5.1.2 paragraph 1 of the convention.

However, the national regulations does not address the assessment of non-IACS members’ competency and independence.
**RO compliance and independence embedded in an RO Agreement**

Under the General Conditions, paragraph 3 of an RO agreement, both IACS members and non-IACS members are required to maintain compliance with the Code for Recognised Organizations (RO Code) Resolution MSC.349 (92), in order to render services for the flag.

Though the requirements of the RO Code does not specifically address the MLC, 2006, the principles in part 2 of the RO Code, which addresses the assessment of ROs, fulfil and comply with the requirements of Standard A5.1.2 paragraph 1 of the Convention.

Therefore, the requirements for the assessment of non-IACS members’ competency and independence is being fulfilled through an RO agreement.

**4.3.4. Assessment of RO Agreements**

As mentioned in 4.3.1 above, Schedule 17(a) and 17(b) of the Shipping Regulations, 2017 requires the Administration to have an agreement between it and its ROs, to carry out MLC, 2006 inspection and certification on its behalf.

However, not all of the ROs that carry out MLC, 2006 inspection and certification for the Administration have an agreement. Thus, the Administration is in contravention of its own regulation.

**List of ROs provided in Circular N° MLC 002**

As mentioned in 4.3, the Administration has 16 ROs that are authorised either formally/informally to carry out MLC, 2006 inspection and certification. Paragraph 4.1 of Circular N° MLC 002 provides a list of 15 authorised ROs. However, IACS, (2019) list of ROs shows that 2 of the Administration’s ROs have merged and the RO agreement shows that 1 RO is missing from the list. Therefore, the list of ROs provided in Circular N° MLC 002 is inaccurate.
**ROs with a written agreement**

Based on the RO agreements provided by the Department of Maritime Administration, there are 11 ROs that have written agreements authorising them to carry out MLC, 2006 inspection and certification. 9 of the 11 ROs are listed in paragraph 4.1 of Circular N° MLC 002.

While the legal framework comply with the RO Code and Guideline B5.1.2 paragraph 3 of the Convention, the current practice of the Administration of having informal RO agreement is noncompliant.

**Comparison between IACS members and non-IACS members**

Tables 1 and 2 show a comparison between IACS and non-IACS members who have and do not have a written agreement with the Administration.

**Table 1: IACS Members RO agreement status**

<table>
<thead>
<tr>
<th>Total with an Agreement</th>
<th>Total without an Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>5</td>
</tr>
</tbody>
</table>

**Table 2: Non-IACS Members RO Agreement status**

<table>
<thead>
<tr>
<th>Total with an Agreement</th>
<th>Total without an Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>0</td>
</tr>
</tbody>
</table>
**List of RO provided to the ILO**

The list of ROs which the Administration provided to the ILO corresponds to those listed in paragraph 4.1 of Circular N° MLC 002 (ILO, 2014); as discussed above, this list is inaccurate.

Therefore, the Administration is deficient in complying with Standard A5.1.2 paragraph 4 to provide the ILO with a current list of ROs, see Table 3.

Table 3: Number of ROs

<table>
<thead>
<tr>
<th>Number of RO’s provided to the ILO</th>
<th>Actual number of RO</th>
</tr>
</thead>
<tbody>
<tr>
<td>15(^2)</td>
<td>16(^3)</td>
</tr>
</tbody>
</table>

**Comparison between RO**

Tables 4 shows a comparison between ROs on the ILO list which have and do not have an agreement, while Table 5 shows a comparison between ROs that are not on the ILO list which have and do not have an agreement

Table 4: List of ROs provide to ILO

<table>
<thead>
<tr>
<th>Total with an RO Agreement</th>
<th>Total without an Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>5</td>
</tr>
</tbody>
</table>

\(^2\) 15 ROs are listed on the ILO NORMLEX, however 2 of the 15 them have merged.

\(^3\) This figure is based on the total number of RO agreements (9) plus the ROs that do not have an agreement which is provided in Circular N° MLC 002 (8) minus 1 RO (as 2 ROs merged and became 1)
Table 5: List of ROs not provided to ILO

<table>
<thead>
<tr>
<th>Total with an RO Agreement</th>
<th>Total without an Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>0</td>
</tr>
</tbody>
</table>

4.3.5. Empowerment of ROs to require the rectification of deficiencies

Schedule 17(c) of the Shipping Regulations, 2017 provides the legal framework to empower ROs to require the rectification of MLC, 2006 deficiencies identified by its surveyors and to carry out inspections at request of port State control (PSC).

Additionally, it is stated in paragraph 2 of the General Conditions in an RO agreement that the RO agrees to co-operate with PSC to facilitate the rectification of deficiencies.

The combined functions of Schedule 17(c) of the Shipping Regulations, 2017 and paragraph 2 of the General Conditions in an RO agreement is in line and comply with Standard A5.1.2 paragraph 2 of the Convention.

**Procedures for ROs to rectify deficiencies identified by port state control officers**

Paragraph 2 of the General Conditions in an RO agreements also makes reference to “St. Vincent and the Grenadines Circular PSC 018, as amended” (Circular PSC 018).

Circular PSC 018 is made legally binding by an RO agreement. It outlines the steps a RO has to take when responding to deficiencies identified by PSC.

The Convention does not mention anything about procedures for the rectification of deficiencies identified by PSC. However, Circular PSC 018 is useful to ensure clarity of functions when responding to PSC request.
4.3.6. Procedures for Communication with ROs

Paragraph 3 of ‘Information and Liaison’ of an RO agreement requires the Administration to keep its ROs informed about national laws and regulations and relevant international instruments via e-mail.

While paragraph 1 of ‘Information and Liaison’ of an RO agreement requires the RO to report to the Administration as frequently agreed between both parties as defined in Annex 2 of the Agreement.

The combination of paragraphs 1 and 3 of ‘Information and Liaison’ of an RO agreement forms the overall communication system between ROs and the Administration.

Therefore, paragraphs 1 and 3 of ‘Information and Liaison’ of an RO agreement is in line and complies with Standard A5.1.2 paragraph 3(a) of the Convention.

4.3.7. Procedure for Oversight of ROs

Under the heading “Oversight – Monitoring of Recognised Organisation” of an RO agreement, it permits the Administration to carry out oversight and monitoring activities as per Part 3 of the RO Code.

Additionally, Annex 2, paragraphs 4 and 5 of an RO agreement requires the RO to:

- advise the Administration by email when surveys have been carried out and/or ML-Certificate have been issued/endorsed via email; and/or
- provide the Administration with access to its electronic database in order to allow the Administration to monitor statutory surveys and certification services rendered

As it relates to the oversight of ROs, requirements under heading ‘Oversight – Monitoring of Recognised Organisation’ and Annex 2, paragraphs 4 and 5 of an RO agreement is in line and complies with Standard A5.1.2 paragraph 3(b) of the Convention.
Other implementation requirements

The development of the national regulation, procedural guidelines and RO agreements are vitally important for the Administration to fulfil its obligations under Regulation 5.1.2 of the Convention. They also serve to help the Administration to discharge its certification functions under Regulation 5.1.3 of the Convention.

4.4. Maritime Labour Certification embedded in the national regulations

Schedule 18(a) of the Shipping Regulations, 2017 states that Saint Vincent and the Grenadines ships of 500 GT or over engaged in international voyages or operating from a port, or between ports, in another country is required to carry a valid ML-Certificate and DMLC conforming to the model set out in the Convention.

This is endorsed by paragraph 5.1.1 of Circular N° MLC 002, which states that all ships of 500GT are required to carry a ML-Certificate.

Schedule 18(a) of the Shipping Regulations, 2017 and paragraph 5.1.1 of Circular N° MLC 002 fulfil and comply with Regulation 5.1.3 paragraphs 1 and 5 of the Convention.

Ships less than 500 GT

Schedule 18(c) of the Shipping Regulations, 2017 states that a vessel less than 500 GT does not need to carry a ML-Certificate and a DMLC but may elect to do so. This is reiterated in Paragraph 5.1.1 of Circular N° MLC 002 which states that it is not mandatory for ships less than 500 GT to have a ML-Certificate on-board, such certificate can be issued on request by the shipowner/manager.
Schedule 18(c) of the Shipping Regulations, 2017 and Paragraph 5.1.1 of Circular N° MLC 002 are line and complies with Regulation 5.1.3, paragraph 2 of the Convention.

4.4.1. MLC, 2006 Certification of ships

Annex I, item 9.3 of an RO agreement authorises the RO to issue short-term and interim ML-Certificate. Paragraphs 5.3.6 and 5.3.13 of Circular N° MLC 002 states that the DMLC Part I and the full-term ML-Certificate will be issued by the Administration, following a satisfactory inspection report from the RO.

The current MLC, 2006 inspection and certification system helps the Administration to monitor and verify the adequacy of work performed by its ROs, which strengthen the oversight functions mentioned in 4.3.7 of this paper.

The carriage and maintenance of ML-Certificate and DMLC on-board ships

Paragraph 5.3.14 of Circular N° MLC 002 requires all Saint Vincent and the Grenadines ships, to which the Convention applies, to have either a short-term or full-term ML-Certificate on-board. Paragraphs 5.3.10 and 5.3.13 of Circular N° MLC 002 requires the originals ML-Certificate, DMLC Part I and II to be kept on-board the ships.

As it relates to certification, the requirements of paragraphs 5.3.14, 5.3.10 and 5.3.13 is in line and comply with Regulation 5.1.3 paragraphs 3 and 4 of the Convention.

4.4.2. Full-term ML-Certificate and Renewal Inspection

Paragraphs 5.5.1, 5.5.2 and 5.5.3 of Circular N° MLC 002 states that the validity of a ML-Certificate is subjection to an intermediate inspection, where the scope and depth of such inspection is equal to a renewal of ML-Certificate inspection. If only one inspection is carried out for a ML-Certificate valid for five years, it is required to be
done between the second and third anniversary date of the certificate. Upon satisfactory
inspection, the RO is required to endorse the certificate.

Paragraphs 5.5.1, 5.5.2 and 5.5.3 of Circular N° MLC 002 are in line and comply with
Standard A5.1.3 paragraph 2 of the Convention.

Renewal of the ML-Certificate

Paragraphs 5.6.2, 5.6.2.1 and 5.6.3 Circular N° MLC 002 recalls that where a renewal
inspection has been satisfactorily completed within three months before the expiry date
of the ML-Certificate, the Administration will issue a new full-term ML-Certificate
valid for five years from the date of expiry of the existing certificate. On satisfactory
completion of a renewal inspection, the RO may extend/endorse the existing certificate
or issue a short-term ML-Certificate valid for a period of five months to allow the
issuance and the availability of a new full-term ML-Certificate on-board the ships.

Paragraph 5.6.4 of Circular N° MLC 002 states that when a renewal inspection has been
satisfactorily completed more than three months before the expiry date of the existing
ML-Certificate, a new certificate will be valid for a period not exceeding 5 years from
the date of inspection.

Paragraphs 5.6.2, 5.6.2.1, 5.6.3 and 5.6.4 of the Circular N° MLC 002 is in line and
comply with the requirements of Standard A5.1.3 paragraphs 3 and 4 of the Convention.

4.4.3. Issuance of an interim ML-Certificate

Schedule 18(b) of the Shipping Regulations, 2017 states that an interim ML-Certificate
may be issued to a ship for a validity of not more than six months. The interim ML-
Certificate may be issued when:

i. The ship is a new ship on delivery;
ii. The ship has changed from another flag to the flag of Saint Vincent and Grenadines; or

iii. The shipowner assumes responsibility for the operation of the ship when it is new to him

Schedule 18(b) of the Shipping Regulations, 2017 is in line and comply with the Standard A5.1.3 paragraphs 6.

4.4.4. Requirements for the issuance of an interim MLC

Paragraph 5.1.6 of Circular N° MLC 002 requires the scope of an interim inspection to include the matters referred to in Appendix A5-I of the Convention.

Paragraph 5.4.5 of Circular N° MLC 002 requires: (1) the shipowner/manager to have adequate procedures to comply with the requirements of the Convention; (2) the master to be familiar with the Convention and be responsible for its implementation.

Paragraph 5.3.4 of Circular N° MLC 002 requires the shipowners/managers to submit a formal request to the Administration for the issuance of the DMLC. The request should be done using the application form in Appendix 3

Paragraphs 5.1.6, 5.4.5 and 5.3.4 of Circular N° MLC 002 is in line and complies with Standard A5.1.3 paragraph 7 of the Convention.

The validity of interim ML-Certificate

Paragraph 5.4.2 of Circular N° MLC 002 States that an interim ML-Certificate may be issued for a period of six months without the possibility of being extended or reissued. Paragraph 5.4.7 recalls that the DMLC Part II is not required for an interim MLC, 2006 inspection/certification.

Paragraphs 5.4.2 and 5.4.7 is in line and comply with Standard A5.1.3 paragraph 8 of the Convention.
However, the Shipping Regulations, 2017 and Circular N° MLC 002 is silent in relation to the requirement for ships to carry out a full MLC, 2006 inspection prior to the expiry of the interim certificate to facilitate the issuance of a full-term ML-Certificate.

4.4.5. Significance of the DMLC Part I and II

Paragraph 5.10 of Circular N° MLC 002 states that the DMLC Part 1 includes the requirements of the national law while Part II includes the measure taken by the shipowner to give effect to the national regulations.

Paragraph 5.3.6 states that the DMLC Part 1 is issued by the Administration and includes any exemptions and/or equivalences regulation.

A sample of the Administration’s DMLC Part I in Appendix 4 shows:

1. the provisions of the Convention are fully embodied in the national requirements
2. the national requirements are contained in the national provisions
3. details of any substantial equivalencies requirements
4. ship-type specific requirement under the national regulations
5. the list of matters to be inspected

Paragraphs 5.10, 5.3.6 and the sample DMLC Part I shows that the Administration has complied with the requirements of Regulation 10 Standard A5.1.3 of the Convention.

4.4.6. Availability of subsequent inspections

Standard A5.1.3 paragraph 11 requires the results of all previous inspection or verification to be recorded, including any significant deficiencies found and the date remedied. This information is required to be inscribed upon or appended to the DMLC or be made available to interesting parties.

Both the Shipping Regulation 2017 and the Circular N° MLC 002 is silent on the requirement of Standard A5.1.3 paragraph 11.
4.4.7. Cease of certificate validity

It is recorded in Schedule 18(d) of the Shipping Regulations, 2017, that a ML-Certificate may cease to be valid in the following circumstances where:

i. inspections are not completed within the periods specified in the Convention;
ii. the certificate is not endorsed as required by the Convention;
iii. the ship changes flag;
iv. a shipowner ceases to have the responsibility for the operation of a ship; or
v. substantial modifications are made to the structure or equipment covered in Title 3 of the Convention

Additionally, paragraph 5.7.1.6 of Circular N° MLC 002 states that a ML-Certificate may cease to be valid when “amendments to national laws or regulations or other measures implementing the MLC, 2006 are not taken into account.”

Schedule 18(d) of the Shipping Regulations, 2017 and paragraph 5.7.1.6 of Circular N° MLC 002 is in line and comply with Standard A5.1.3 paragraph 14.

Reissuance of a MLC after being ceased

After a Certificate has been ceased, Standard A5.1.3, paragraph 15 of the Convention requires the Administration to issue a new Certificate after verifying that the ship complies with the Convention.

The Administration is deficient in complying with Standard A5.1.3 as there is nothing in the regulations which speaks to the reissuing of a Certificate after it has ceased.

4.4.8. Withdrawal of certificate

As it relates to the withdrawal of a ML-Certificate, Schedule 18(e) of the Shipping Regulations, 2017 permits the Administration or RO to withdraw a ML-Certificate from a Saint Vincent and the Grenadines ship, where evidence of noncompliance is provided.
The Administration or RO is also required to take into account the seriousness or the frequency of the deficiencies.

Paragraph 5.8 of Circular N° MLC 002 replicates Schedule 18(e) of the Shipping Regulations, 2017.

Schedule 18(e) of the Shipping Regulations and paragraph 5.8 of Circular N° MLC 002 is in line and comply with Standard A5.1.3 paragraph 16 and 17.

Other implementation measures

In support of the MLC, 2006 certification of ships, the Administration has developed national law and regulations to govern the inspection and enforcement of the Convention on-board its ships as discussed in the following chapter.

4.5. Inspection and enforcement

The Department of Maritime Administration states that the inspection and/or survey of ships is generally done by both ROs and non-ROs. However, only ROs are authorised to carry out MLC, 2006 inspection and certification on behalf of the flag.

As mentioned in 4.3.1 above, the Shipping Regulation 2017 provides the provision for the Administration to enter into an agreement with ROs to carry out MLC, 2006 inspection and certification.

The RO agreements, in conjunction with the national regulations and the procedural guidelines, form the basis for an effective and coordinated system for inspection, monitoring and other control measures as required by Regulation 5.1.4 of the Convention.
4.5.1. Maintenance of an inspection system

Standard A5.1.4 paragraph 1 of the convention requires the Administration to verify that its ships are complying with the Convention and the national regulations through an effective and coordinated system.

For ships of 500 GT and over engaged in international voyages, the Administration fulfils the requirement of Standard A5.1.4 paragraph 1 as follows:

- Schedule 17 (a) and (b) of the Shipping Regulations, 2017 empowers the Administration to authorise ROs to carryout MLC, 2006 inspection and certification;
- Schedule 17 (c) of the Shipping Regulations, 2017 empowers ROs to require the rectification of MLC, 2006 deficiencies, which are identify by the RO’s inspectors and port State control authorities;
- For ships carrying a full-term ML-Certificate, 5.51 of Circular N° MLC 002 requires the ship to have an intermediate inspection as per Standard A5.1.3 of the Convention;
- Before a renewal certificate can be issued, 5.6.1 of Circular N° MLC 002 requires all national requirements of the MLC, 2006 to be verified during a renewal inspection; and
- Annex 2, paragraphs 5 and 6 of the RO agreement require ROs to provide the Administration with copies of surveys reports and certificates issued/endorsed via email or through an electronic database.

The above set the legal premise for ROs to discharge their duties as per the Convention. It ensures that ships are inspected for continued compliance with the Convention and properly certified.

However, the Administration does not have a system in place, which complies with Standard A5.1.4 paragraph 1, for commercial ships of less than 500 GT engaged on international voyages.
The Department of Maritime Administration states that the majority of the ships that are less than 500 GT do not belong to a recognised organisation. Furthermore, these ships are normally surveyed/inspected by other flag State surveyors/inspectors pursuant to Section 356 of the Shipping Act, 2004.

While the Administration complies with the requirements of Standard A5.1.4 paragraph 1 of the Convention for ships of 500 GT and over, engaged in international voyages, it is deficient in complying with the requirements for commercial ships of 500 GT and less, engaged on international voyages.

4.5.2. Sufficient and competent ROs

Standard A5.1.4 paragraph 2 of the Convention requires the Administration to have a sufficient number of qualified inspectors and to ensure persons carrying out inspections for ROs are qualified. The Administration is also responsible for providing ROs with legal authority to perform their duties.

Under the General Conditions, paragraph 3 of an RO agreement requires ROs to maintain compliance with the RO Code. Though the RO Code does not specifically address the MLC, 2006, ROs are required to comply with Appendix 1 of the RO Code which provides general requirements for the qualification of ROs.

To some extent, the Administration has complied with Standard A5.1.4 paragraph 2 of the Convention as it relates to the qualification of RO as the RO agreements requires ROs to comply with Appendix 1 of the RO Code.

The Department of Maritime Administration stated without evidence that it has sufficient number of inspectors (ROs) to carry out MLC, 2006 inspection and certification.
4.5.3. Sufficient and competent non-ROs

Standard A5.1.3 paragraph 3 of the Convention requires the Administration to have adequate provisions to ensure inspectors are able to fulfil the duties of Regulation 5.1.3 paragraph 1 of the Convention.

As stated in 4.5.1, the Administration does not have non-RO inspectors to inspect ships of less than 500 GT for compliance with the MLC, 2006. Therefore, the Administration is deficient in fulfilling the requirements of Standard A5.1.3 paragraph 3 of the Convention.

4.5.4. ML-Certificate Inspection intervals

As mentioned in 4.4.3 above, paragraphs 5.5.1 and 5.5.2 of Circular № MLC 002 states that the validity of a ML-Certificate is subject to the intermediate inspection. If only one intermediate inspection is carried out for a ML-Certificate valid for five years, it is required to be done between the second and third anniversary dates of the certificate.

Paragraphs 5.5.1 and 5.5.2 of Circular № MLC 002 are in line and comply with Standard A5.1.4 paragraph 4.

4.5.5. Investigation and remedy of MLC, 2006 deficiencies

The national regulations do not explicitly require the Administration to investigate complaints received where there is evidence of non-compliance with the Convention or where there are serious deficiencies of implementing the requirements laid out in the DMLC.

The Administration is deficient in fulfilling its obligation to comply with Standard A5.1.4 paragraph 5 of the Convention.
4.5.6. Protection of inspectors from external influences

Though not specific to the MLC, 2006, regulations for the appointment of flag State surveyors/inspectors (non-ROs) are provided under Part XVIII of the Shipping Act, 2004.

Part XVIII, Section 356 of the Shipping Act, 2004 states: (1) who has the power to appoint a surveyor/inspector; (2) the different types of surveying categories; and (3) why a surveyor/inspector may be appointed.

The Shipping Act, 2004 does not provide rules to guarantee that an inspector has status and conditions to ensure that they are independent of changes of government and of improper external influence as required by Standard A5.1.4 paragraph 6.

4.5.7. Empowerment of Inspectors to perform their duty

The powers conferred in Section 359 (1) (b) of the Shipping Act, 2004, are conferred to “any Saint Vincent and the Grenadines ship wherever it may be and any other ship which is present in Saint Vincent and the Grenadines or in the waters of Saint Vincent and the Grenadines.”

Any ship that is covered by Section 359 (1) (b) of the Shipping Act, 2004, Section 359 (2) empowers an inspector to:

i. board that ship; and
ii. carry out any examination and investigation considered necessary

Section 362 (3) (c) of the Shipping Act, 2004 authorised the inspector to prohibit a ship from going to sea; wherein the inspector’s opinion, the ship has contravened any of the relevant statutory provisions.

The inspector is given the authorisation under Schedule 18 (g) of the Shipping Regulations, 2017 to “require the rectification of deficiencies identified in seafarer’s
working and living conditions and to carry out inspections in this regard at the request of Port State Control.”

The national regulation is in line and complies with Standard A5.1.4, paragraphs 7 of the Convention.

**4.5.8. The right of judicial appeal**

A shipowner/manager who thinks that any action taken by an inspector, in 4.5.7 above has the right to appeal under Schedule 18 (h) of the Shipping Regulations, 2017, which states that “nothing in paragraph (c) of Standard A5.1.4 shall affect any right of appeal to the High Court against administrative action.”

Additionally, regulation 10 (2) of the Shipping Regulations states that “[...] an offence under sub-regulation (1)\(^4\), it shall be a defence for a shipowner or master to prove that he did not have control of the matter to which the offence relates [...] and that he has complied with regulation 7(4)\(^5\).”

Schedule 18 (h) and regulation 10 (2) of the Shipping Regulations, 2017 is in line and complies with Standard A5.1.4 paragraph 8 of the Convention.

**4.5.9. Discretion of inspector to give advice**

Standard A5.1.4 paragraph 9 of the Convention permits inspectors to give advice instead of making recommendations where there is no clear breach of the Convention and no prior history of similar breaches.

\(^4\) See 4.5.16 of this document
\(^5\) “It shall be the duty of the shipowner and master to take all reasonable steps to ensure that a person referred to in sub-regulation (3) is aware of the duty imposed by that sub-regulation and is capable of performing it” (Saint Vincent and the Grenadines, 2017).
The national regulations do not permit inspectors to give advice as per Standard A5.1.4 paragraph 9 of the Convention. Therefore the Administration does not comply with Standard A5.1.4 paragraph 9 of the Convention.

4.5.10. Confidentiality of inspectors

Standard A5.1.4 paragraph 10 of the Convention requires inspectors to treat confidentially the source of any grievance or complaint alleging a danger or deficiency of the MLC, 2006 and/or the national regulations.

The Administration is deficient in complying with Standard A5.1.4 paragraph 10 of the Convention as there is nothing in the national regulations to cover such requirements.

4.5.11. Duties of conflict of Interest

Standard A5.1.4 paragraph 11 of the Convention states that inspectors shall not be entrusted with duties which might have an effect on the inspection or prejudice the inspection in any way.

The national regulations of Saint Vincent and Grenadines does not make provision for the requirement of Standard A5.1.4 paragraph 11 of the Convention. Therefore, the Administration is deficient in complying with Standard A5.1.4 paragraph 11 of the Convention.

4.5.12. Composition and distribution of inspection report

Standard A5.1.4 paragraph 12 of the Convention requires a copy of the inspection report to be: (1) provided to the Administration; (2) provided to the master in English or working language of the ship; and (3) posted on the ship’s notice board.
Paragraph 5.1.9 of Circular N° MLC 002 requires ROs to provide a copy of the inspection report to the Administration.

Paragraph 5.1.9 of Circular N° MLC 002 is in line and complies with the requirement for inspection reports to be provided to the Administration. However the national regulations does not comply with the order requirements of Standard A5.1.4 paragraph 12 of the Convention.

4.5.13. Record of inspection and publishing of an annual report

Standard A5.1.4 paragraph 13 of the Convention requires the Administration to maintain records of inspection of the working and living conditions of seafarers on-board its ships and to publish an annual report of inspection activities.

The Department of Maritime Administration stated that all inspection reports included MLC, 2006 reports are kept in its database system. However, it has never produced an annual report of inspection activities.

For Standard A5.1.4 paragraph 13 of the Convention, the Administration complies with the requirement to maintain record of inspection of the conditions of seafarers on-board its ships but it is deficient with its obligation to publish an annual report.

4.5.14. Investigation of major incidents

Section 367 (1) of the Shipping Act, 2004 states when a casualty investigation should be carried out but it does not state the period in which a report is required to be produced to the Administration.

The Administration is deficient in complying with its obligations pursuant to Standard A5.1.4 paragraph 14 of the Convention.
4.5.15. Prevention of unreasonably detained or delayed of ships

Section 358 (3) of the Shipping Act, 2004 states that any person exercising his/her power under Part XVIII of the Shipping Act, 2004, “shall not unnecessarily detain or delay a ship […].”

Section 358 (3) of the Shipping Act, 2004 is line and complies with the requirements of Standard A5.1.4 paragraph 15 of the Convention.

4.5.16. Compensation for loss or damage

Schedule 18 (i) of the Shipping Regulations, 2017 states that “if the shipowner proves that there was not reasonable and probable cause for action taken by a proper officer, the Minister shall pay him compensation for loss or damage caused by the action.”

Schedule 18 (i) of the Shipping Regulations, 2017 is in line and complies with the requirements of Standard A5.1.4 paragraph 16 of the convention.

4.5.17. Penalties and corrective measures for breaches

Regulation 10 (1) of the Shipping Regulation, 2017 recalls that where a person specified in regulation 7 contravenes the provisions of that regulation, that person commits an offence and is liable on summary conviction to a fine, or a term of imprisonment.

Regulation 10 (1) of the Shipping Regulation 2017 is in line and comply with Standard A5.1.4 of the Convention.

Other implementation measures

In the following chapter, the Administration has implemented other regulations to help in the fair, effective and expeditious resolution of seafarer’s complaints on-board its ships.
4.6. Ship’s complaint procedures

Schedule 19 (d) of the Shipping Regulations, 2017 requires the shipowners to develop a formal complaint procedure that is available to all the seafarers on-board, which should include the Administration’s contact information and contact information for the maritime authorities in the seafarer’s country of residence. The Department of Maritime Administration provides a template available in Appendix 5.

Schedule 19 (d) of the Shipping Regulations, 2017 also requires the procedures developed by the shipowner to:

i. Seek to resolve complaints at the lowest level possible but shall not prevent a seafarer from making a complaint directly to the ship’s master, shipowner or, the Administration, where the seafarer considers it necessary or appropriate;

ii. Provide for the seafarer making a complaint to have the right to be accompanied or represented during the procedure; and

iii. Include safeguards against victimisation of any seafarer making a complaint where victimisation includes any adverse action taken against a seafarer by any person following a complaint which is not malicious or vexatious (Saint Vincent and the Grenadines, 2017)

Additionally, paragraph 6.1 of Circular N° MLC 002 makes it mandatory for shipowners to develop an on-board procedures for the fair, effective and prompt handling of seafarers' complaints of alleging breaches of the Convention and the national regulations.

Schedule 19 (d) of the Shipping Regulations, 2017 and paragraph 6.1 of Circular N° MLC 002 are in line and comply with the following requirements of the Convention:

- Regulation 5.1.5 paragraph 1;
- Standard A5.1.5 paragraph 1;
Standard A5.1.5 paragraph 3.0

The current wording of Schedule 19 (d) (i) of the Shipping Regulations, 2017 does not explicitly state the requirement of Standard A5.1.5 paragraph 2 which offers the possibility of seafarers to report “[…] to appropriate external authorities.” Neither does it explicitly state the requirement of Regulation 5.1.5 paragraph 3 “[…] to seek redress through whatever legal means the seafarer considers appropriate.”

However, the interpretation of Schedule 19 (d) (i) of the Shipping Regulations, 2017 which states that “[…] where the seafarer considers it necessary or appropriate” can be considered as filling the requirements of Standard A5.1.5 paragraphs 2 and 3.

4.6.1. Prohibition and penalisation of any form of victimisation

Schedule 19 (a) of the Shipping Regulations, 2017 states that, “no person shall victimise any seafarer for filing a complaint and victimisation shall be an offence subject to the penalties specified in Regulation 106 of these regulation.”

Schedule 19 (a) of the Shipping Regulations, 2017 is in line and complies with Regulation 5.1.5 paragraph 2 of the Convention.

4.6.2. Requirements for on-board complaint procedures

Schedule 19 (d) of the Shipping Regulations, 2017 states that the complaint procedures must be available on-board and contain contact information related to flag/shipowner/residence support. In additional, schedule 19 (e) of the Shipping Regulations, 2017 requires every seafarer to be provided with the names of the person(s) on-board who can confidential provide the seafarer with impartial advice on a compliant or other assistance.

6 See 4.5.17 of this document
Schedule 19 (d) and (e) of the Shipping Regulations, 2017 is in line and complies with Standard A5.1.5 paragraph 4 of the convention.

4.7. Current assessment of on-board complaints

During the period of 2013 to 2018, the Administration received 38 complaints from seafarers who had been addressed by either the Administration, International Transport Workers’ Federation (ITF), court order, personal lawyers or the companies acting on its behalf.

Statistical data for the period of 2013 to 2018 shows that the majority of the complaints were wage-related and were mostly addressed through legal proceedings. Repatriation was the second highest complaint, which was followed by unfair dismissal. Table 8 provides an illustration of the various types of complaints received during that period.

Table 6: Complaints received during the period of 2013 to 2018

<table>
<thead>
<tr>
<th>Year</th>
<th>Propose</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>Wages</td>
<td>100%</td>
</tr>
<tr>
<td>2014</td>
<td>Unfair dismissal</td>
<td>33%</td>
</tr>
<tr>
<td></td>
<td>Wages</td>
<td>67%</td>
</tr>
<tr>
<td>2015</td>
<td>Wages</td>
<td>50%</td>
</tr>
<tr>
<td></td>
<td>Employment Agreement</td>
<td>25%</td>
</tr>
<tr>
<td></td>
<td>Repatriation</td>
<td>25%</td>
</tr>
<tr>
<td>2016</td>
<td>Repatriation</td>
<td>33%</td>
</tr>
<tr>
<td></td>
<td>Wages</td>
<td>67%</td>
</tr>
<tr>
<td>2017</td>
<td>Wages</td>
<td>100%</td>
</tr>
<tr>
<td>2018</td>
<td>Wages</td>
<td>33%</td>
</tr>
<tr>
<td></td>
<td>Abandonment</td>
<td>33%</td>
</tr>
<tr>
<td></td>
<td>Repatriation</td>
<td>17%</td>
</tr>
<tr>
<td></td>
<td>Unfair dismissal</td>
<td>17%</td>
</tr>
</tbody>
</table>
Based on the statistics, Title 2 of the Convention seem to be an area of concern for CME. Nonetheless, complaints have been managed by the Department of Maritime Administration in a consistent manner as there are clear procedures on how to deal with them. The existing procedures comply with the requirements of Regulation 5.1.5 of the Convention.

4.8. Reported incidents of abandonment of seafarers to the ILO

The ILO database on abandonment of seafarers and ships shows that 29 cases were reported since 2004. Of the 29 cases, 13 were resolved while some cases are unsolved for more than 10 years.

On 18 January 2017, the MLC, 2006 amendment in 2014, to require “expeditious and effective financial security system to assist seafarers in the event of their abandonment,” entered into forced. There were 7 reported cases following the enforcement of the 2014 MLC, 2006 amendments (see Table 7).

Table 7: Reported Incidents of Abandonment to the ILO from 2017 to 2019

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of cases</th>
<th>Cases resolved</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>2018</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>2019</td>
<td>2</td>
<td>0</td>
</tr>
</tbody>
</table>

Though the number of cases reported are low when compared to the number of ships on flag (over 2600 ships), the statistic shows that less than 50% of the reported cases have been resolved following the enforcement of the MLC, 2006 amendments of 2014. It
indicates that flag State should strengthen its implementation and consider financial security and abandonment of seafarers with much care.

4.9. Marine casualties

Article 94(7) of UNCLOS requires flag States to carry out an investigation into every marine casualty or incident of navigation on the high seas, which caused: (1) the loss of life or serious injury; (2) serious damage to ship and/or the marine environment.

Being a ratifying Member of SOLAS, Saint Vincent and the Grenadines is required to investigate marine casualties or incidents; as per the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code).

The Casualty Investigation Code fulfils the requirements of Regulation 5.1.6 of the Convention.

4.9.1. Investigation of marine casualties

Section 367 (1) of the Shipping Act, 2004 requires an inquiry and an investigation into marine casualties or incidents where there is:

i. loss or presumed loss, stranding, grounding, abandonment of, or damage to, a ship;

ii. loss of life or serious injury to any person; or

iii. any damage to the ship,

The ship is required to be a Saint Vincent and the Grenadines ship or a ship in the waters of Saint Vincent and the Grenadines at the time when the casualty/incident occur (Saint Vincent and the Grenadines, 2004).
Section 367 (1) of the Shipping Act, 2004 is in line and complies with the first sentence of Regulation A5.1.6 paragraph 1.

However, the national regulations do not comply with the second sentence of Regulation A5.1.6 paragraph 1 which requires the final investigation report to be made public.

4.9.2. Cooperation of States to facilitate a marine investigation

Section 371 (1) (b) of the Shipping Act, 2004 states that where “the death occurred in a country outside Saint Vincent and the Grenadines [...], the Director may arrange for an inquiry into the cause of the death [...].”

Section 371 (2) (b) of the Shipping Act, 2004 also states that:

[…] a seafarer employed in, such a ship dies in a country outside Saint Vincent and the Grenadines. An inquiry into the cause of the death shall be held […] at the next port […], or at such other place as the Director may direct

Section 371 (1) (b) and (2) (b) only speak about the death of a person on-board a Saint Vincent and Grenadines ships in another country. This section nor any other section speaks about cooperation to facilitate marine casualties.

The national regulations do not comply with Regulation 5.1.6 paragraph 2 of the convention.
4.9.3. Marine casualty investigation in SVG

Section 367 (2) of the Shipping Act, 2004 requires a formal investigation to be carried out for every serious marine casualty by a board appointed by the Minister. Section 368 (1), requires the Board to consist of a Judge of the Court or a Magistrate or an Attorney and one or more assessors. However, the objectives of the Board does not serve to prevent future marine casualties and incidents as Section 367 (3), (5), (6) and (7) serve to apportion blame or determine liability.

The Administration is deficient in its obligation to comply with the requirements of chapter 12 of the Casualty Investigation Code.

Status of Marine casualty reports

As of September 4th 2019, the marine casualties/incidents reports listed on the Global Integrated Shipping Information System (GISIS) shows that Saint Vincent and the Grenadines is not compliant with its obligation to report on marine casualties/incidents. There are 230 maritime casualties/incident listed on GISIS but only 38 reports have been provided for Figure 3 illustrate a graphical distribution of reports available on GISIS.

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7 According to Section 368 (1) of the shipping Act 2004, an assessors is the person with the requisite skills and knowledge in maritime matters.
On 15 February 2019 the IMO Secretary-General, Mr. Kitack Lim, called for Member States to investigate marine casualties and file the reports to the IMO. Despite such call, at present, Saint Vincent and the Grenadines has filed less than 17% of casualties affecting its ships. It is unknown whether Saint Vincent and the Grenadines had investigated the remaining 83% casualties.

Of the 38 marine casualty investigations filed on GISIS, 26 of them are MLC, 2006 (injuries or death) related.

4.10. **External assessment of the implementation and enforcement by PSC**

After this assessment of the current practice, the researcher assessed the status of Saint Vincent and the Grenadines as reported by externals. In this respect, the assessment made by the International Chamber of Shipping has been chosen because it provides an overview from the various organisations providing performance indicators on Flags.

![Total number of reports available on GISIS by Agency](image)

Figure 3: A graphical view of SVG Marine casualty/incident reports on GISIS
The report “Shipping Industry Flag State Performance Table,” 2018/2019 shows the following deficiencies for the flag of Saint Vincent and the Grenadines:

- deficiency in completing ILO reports as mentioned in 4.1 above;
- deficiency in attending IMO meetings;

According to the same report, performance of Saint Vincent and the Grenadines fleet during PSC has been reported and assessed by the following organisations (see Table 8).

Table 8: PSC Assessment report and assessment

<table>
<thead>
<tr>
<th>Organisations</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tokyo MoU</td>
<td>Satisfactory&lt;sup&gt;8&lt;/sup&gt;</td>
</tr>
<tr>
<td>Paris MoU</td>
<td>Insufficient&lt;sup&gt;9&lt;/sup&gt;</td>
</tr>
<tr>
<td>United States Coast Guard</td>
<td>Insufficient&lt;sup&gt;10&lt;/sup&gt;</td>
</tr>
</tbody>
</table>

In short, Statistics from the Paris MoU and USCG mean that the implementation of regulations can be improved to avoid targeting of SVG ships.

With respect to MLC, 2006, statistics from the Paris MoU from 2016 to 2019 shows that Saint Vincent and the Grenadines ships, which visit European countries and Canada have a high rate of deficiencies in relation to Title 4 of the Convention, while most ships were detained for non-compliance with Title 3 of the Convention (see figure 4).

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<sup>8</sup> 2017 Annual report on PSC shows that SVG is on the white list (last available on 13 Sep. 2019)

<sup>9</sup> 2017 Annual report on PSC shows that SVG is grey listed at rank 50 (last report available on 13 Sep. 2019)

<sup>10</sup> 2018 Annual report on PSC shows that SVG is on the target list (last report available on 13 Sep. 2019)
4.11. Summary of findings

From a regulatory point of view, the Administration has endeavoured to mirror the requirements of Title 5 into its national laws with some success. This was done through the amendment of the Shipping Act, 2004 to include the Shipping Regulations, 2017.

Circular N° MLC 002, which is made mandatory under the Shipping Regulations, 2017, includes additional procedures and requirements for CME of the Convention. However, there are still shortcomings in CME of the Convention as discussed below.

Deficiencies pursuant to Regulation 5.1.1 are related to:

- adequate procedures to assess the attainment of its objectives and standards;
- the requirement for ships to have a copy of the Convention available on-board

Deficiencies pursuant to Regulation 5.1.2 are related to:

- contract agreements between the Administration and ROs;
- providing the ILO with a current list of ROs
Deficiencies pursuant to Regulation 5.1.3 are related to:

- the requirements for an inspection to be carried out prior to the issuance of a full-term ML-Certificate;
- the requirement for the findings of all subsequent inspections or verifications to be available on-board;
- measures taken to address deficiencies to be made available on-board;
- Procedures for reissuing a ceased certificate

Deficiencies pursuant to Regulation 5.1.4 are related to:

- inadequate provisions for all ships to be covered by the Convention (no inspections for ships below 500GT);
- the complaints procedures and management needs to comply with the Convention;
- job security and the protection of inspectors from change of government and other improper external sources;
- inspectors having the freedom to give advice in situations where there are no clear breach of the regulations;
- inspectors treating the source of any grievance or complaint with strict confidence;
- preventing inspectors from undertaking inspections which may cause conflict of interest;
- the requirement for publishing an annual report of inspection;
- providing the master with a copy of the inspection report in English or working language of the ship
- the requirement for inspection reports to be made available on-board for seafarer’s information

Deficiencies pursuant to Regulation 5.1.6 are related to:

- the cooperation between States to facilitate a marine casualty investigation
All seafarers’ complaints during the period 2013 to 2018 show that there is a problem with the implementation of Title 2 of the Convention. The major problem during that period was unpaid wages, which was followed by repatriation of seafarers.

External assessment from the Paris MoU show that the flag has a high deficiency rating with respect to Title 4, which is followed by Title 3 of the Convention during the period 2016 to 2019. This is an indicator that the Administration has to pay closer attention to the CME of Titles 3 and 4.

Also, reported incidents of abandonment to the ILO from 2017 to 2019 shows that less than 50% of the cases have been resolved, which also indicates there is some problem with the enforcement of Title 2 of the Convention.

Although statistics from seafarers’ complaint and PSC reports are not directly related to Title 5 of the Convention, the overall improvement of the CME of Title 5 can improve the performance of the other Titles.
5. DISCUSSION AND RECOMMENDATIONS

Based on chapter 4 of this research, Saint Vincent and the Grenadines complies with about 67% of the requirements of Regulation 5.1 of the Convention. The areas of deficiencies for compliance monitoring and enforcement are discussed below.

**Procedures to assess objectives and standards**

The Administration do not comply with the requirement of paragraph 1 Standard A5.1.1 as it relates to having an adequate procedures to assess the attainment of its objectives and standards.

The Administration can satisfy the requirement of Standard A5.1.1 paragraph 1 by included in Circular Nº MLC 002, procedures to assess how its objectives and standards are being attained. The procedures should be tested and modify accordingly.

**Availability of the Convention on-board**

The Administration do not comply with the requirement of Standard A5.1.1 paragraph 2 of the Convention to ensure its ships have a copy of the Convention on-board.

The Administration can satisfy the requirement of Standard A5.1.1 paragraph 2 of the Convention by inserting a clause in the Shipping Regulations, 2017 to make it mandatory for ships to have a copy of the Convention available on-board it ships.
Breach of RO regulations

The Administration is in breach of Schedule 17 (a) and (b) (of its own regulations), which require every RO to have a written agreement. As such, it is not in line with Guideline B5.1.2 paragraph 1 of the Convention and Part 2 of the RO Code.

The Administration can remedy this by entering into a formal agreement with all of its ROs, which do not have an RO agreement, authorising them to carry out MLC, 2006 inspection and certification on its behalf.

Provision of updated RO list to ILO

The Administration is deficient in complying with Standard A5.1.2 paragraph 4 of the Convention, as the list of ROs provided to the ILO is inconsistent.

The Administration can address this by providing an updated list of ROs to the ILO and IMO after it has rectified the deficiency of RO agreements mentioned above.

Inspection required for the issuance of the full-term Maritime Labour Certificate

Standard A5.1.3 paragraph 8 of the Convention requires a full MLC, 2006 inspection to be carried out prior to the expiry of an interim Certificate. However, there is nothing stated in the national regulations that expressly requires the functions of Standard A5.1.3 paragraph 8 to be carried out.

The Administration can rectify this by including a clause in Circular N° MLC 002, which expressly states that all ships are required to be inspected for compliance with the MLC, 2006 prior to the expiry of an interim certificate to facilitate the issuance of a full-term Certificate.
The availability of subsequent inspections

It is written in Standard A5.1.3 paragraph 11 of the Convention that the findings of all subsequent inspections or verifications as well as action to be taken accordingly shall be dated and documented; and be made available on-board the ship for reviewing by interested parties.

The Administration is in contravention of Standard A5.1.3 of the Convention but it can remedy this by inserting a clause in Schedule 18 of the Shipping Regulations, 2017, which accurately reflects the requirement of Standard A5.1.3 and update Circular N° MLC 002 with detailed procedures of this requirement.

Reissuing of a certificate that has ceased

Following the ceasing of a ML-Certificate, Standard A5.1.3 paragraph 15 of the Convention requires the competent authority or the RO to satisfy itself that the ship is complying with the Convention prior to reissuing a new certificate.

The Administration is in breach of Standard A5.1.3 of the Convention as there are no clear standards for the reissuing of a Certificate that has ceased. The Administration can remedy this by inserting clear procedural requirements for the reissuance of a ML-Certificate following a cease, under 5.7 of Circular N° MLC 002.

The authorisation of non-ROs to carry out MLC, 2006 inspections

Standard A5.1.4 paragraph 1 of the Convention requires the Administration to verify that its ships are complying with the requirements of the MLC, 2006 and the national regulations, through an effective and coordinated system.

The Administration does not fully comply with Standard A5.1.4 paragraph 1 as the current MLC, 2006 inspection system only provides coverage for commercial ships of 500 GT and over. There is no system to cover commercial ships of less than 500 GT.
Since the majority of the ships that are less than 500 GT are inspected by non-ROs, it is recommended that the Administration remedy this by authorising non-ROs to carry out MLC, 2006 inspections on-board these ships and develop an effective and coordinated system as outlined in Standard A5.1.4 of the Convention.

**Addressing of seafarer’s complaints**

The Convention requires the Administration to investigate complaints received where there is evidence of non-compliance with the Convention or with the implementation of the requirements laid out in the DMLC.

The Administration do not comply with Standard A5.1.4 paragraph 5 of the Convention as the national regulations do not explicitly meet the requirements.

The Administration can remedy this by amending Schedule 19 of the Shipping Regulations, 2017 to include a clause that requires the Administration to investigate all complaints of deficiencies, pursuant to Standard A5.1.4 paragraph 5, and ensure that any deficiency found is rectified.

**Protection of inspectors from external influences**

The Administration is required under Standard A5.1.4 paragraph 6 of the Convention to enforce adequate rules, which ensure inspectors are able to perform their job effectively without the influence of government and improper external sources.

The Administration does not comply with Standard A5.1.4 of the Convention. However, it can be remedied by amending Schedule 17 of the Shipping Regulations, 2017 to include clauses that:

- protect the inspector from influences and pressures from any government official or any other external sources; and
- Empower inspectors to report and to resist any source and form of pressure.
Permission for inspectors to give advice

The national regulations of Saint Vincent and the Grenadines do not comply with Standard A5.1.4 paragraph 9 of the Convention, where inspections require the exercise of inspectors’ expert judgment.

It is recommended that the Administration remedy this by including in Schedule 17 of the Shipping Regulations, 2017, a clause permitting inspectors to give advice instead of instituting or recommending proceedings when there is no clear breach of the Convention, national requirements and where there is no history of such breach.

Confidentiality and protection of seafarers

The Administration is not compliant with Standard A5.1.4 paragraph 10 of the Convention, which requires inspectors to treat confidentially the source of any grievance or complaint.

To remedy this, the Administration can amend Schedule 17 of the Shipping Regulations, 2017 to include a clause to strengthen confidentiality as per Standard A5.1.4 paragraph 10 of the Convention; and a clause to penalize breaches of seafarers’ confidentiality and protection.

Duties resulting in conflict of interest

The national regulations do not explicitly prevent inspectors’ conflicts of interest, hence it does not comply with Standard A5.1.4 paragraph 11 of the Convention.

The Administration can remedy this by including a clause in the agreement between it and inspectors to prevent such conflicts and penalties for breach.
Distribution of inspection report

Standard A5.1.4 paragraph 12 of the Convention requires a copy of the inspection report to be: (1) provided to the Administration; (2) provided to the master in English or working language of the ship; and (3) posted on the ship’s notice board.

While the national regulation is in line and complies with the first requirement above, it does not comply with the other two requirements.

The Administration can remedy this by including in Circular N° MLC 002 the full requirements of Standard A5.1.4 paragraph 12 of the Convention.

Publication of annual MLC, 2006 inspection report

Standard A5.1.4 paragraph 13 requires the Administration to publish an annual report of inspection activities. However, Saint Vincent and the Grenadines has not yet published an annual report.

The Administration can remedy this by firstly amending the Shipping Regulations, 2017 to make mandatory the requirements of Standard A5.1.4 paragraph 13.

Secondly, the recording of information related to MLC, 2006 should be included in a database or software to facilitate data processing and statistical analysis necessary to produce consistent reports on inspection activities.

Publicity of final investigation cases

Though the Shipping Act, 2004 complies with most of the requirements of Regulation A5.1.6 paragraph 1 of the Convention, it does not comply with the requirement for the final marine casualty report to be made public.

Statistics on GISIS show evidence that the Administration is deficient in making marine casualty reports public. The Statistic show that there were 230 maritime casualties but
only 38 casualty investigation reports were completed. Of the 38 marine casualties reported, more than 68% of them are MLC, 2006.

The Administration can remedy this by amending Section 367 of the Shipping Act, 2004 to mandate all marine accidents as well as occupational accidents be reported, investigated and analysed. Additionally, a final marine casualty report of any investigation shall be made public and attached to GISIS.

**Cooperation between States on investigation**

The national regulations of Saint Vincent and the Grenadines are silent with regards to cooperation between States to facilitate a marine casualty investigation, hence it does not comply with Regulations 5.1.6 paragraph 2 of the Convention. However, GISIS database demonstrate that such cooperation exist in practice.

A clause in Section 371 of the Shipping Act, 2004 should formalize this type of cooperation.

**Seafarers’ complaints related to title 2**

As discussed in 4.7, the majority of the complaints received from seafarers’ are wage related, followed by repatriation. Additionally, reported incidents of abandonment to the ILO from 2017 to 2019 shows that less than 50% of the cases have been resolved.

The Administration’s DMLC Part 1 requires shipowners to have financial security which covers:

- repatriation of seafarers in cases of abandonment and non-abandonment;
- outstanding wages and other entitlements due to the seafarer for up to four months; etc.

Additionally, the Administration should assess the shipowner capacities prior to registration.
External MLC, 2006 assessment

Based on the statistics from Paris MoU, there is a high rate of deficiencies pursuant to Titles 4 and 3 of the Convention. Therefore, enhanced cooperation with PSC organization is expected to reduce the number of reported deficiencies.
6. CONCLUSION

The ILO developed the MLC, 2006, which incorporates many of its former instruments, to regulate the working and living conditions on-board ships.

The Convention provides requirements for decent working and living conditions on-board ships and sets the framework for fair competition by including stringent CME requirements.

On 9th November 2010, Saint Vincent and Grenadines became the eleventh State to ratify the MLC, 2006. However, it was not until 8th August 2017 that the Shipping Act, 2004 was amended to include the requirements of the Convention.

Regulation 5.1 of the MLC, 2006 give details on the Flag State responsibilities with regards to compliance and enforcement. Flag States are also responsible for inspection and certification as well as to manage on-board complaint and conduct marine casualty investigations.

In the current work, the capacity of the Flag State to comply with Regulation 5.1 requirements has been assessed. The findings show that the Administration is required to adjust some of its provision particularly to comply with Regulations 5.1.1, 5.1.2, 5.1.3, 5.1.4 and 5.1.6.

The recommendations mentioned in chapter 5 of this paper serve to rectify the shortcoming identified in the CME of regulations 5.1.

The following recommendations are aimed at helping the Administration:
- To be compliant with the details of Regulation 5.1 of the Convention;
- To report as required by Article 22 of the ILO constitution;
- To strengthen its relationship and oversight capacity of its ROs by requiring a formal agreement for all ROs;
- To reduce the number complaints pursuant to Title 2 of the Convention
- To improve MLC, 2006 deficiencies identified by PSC.
REFERENCES


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APPENDIX 1 – Shipping (Maritime Labour Convention) Regulations, 2017

ARRANGEMENT OF REGULATIONS

REGULATIONS

1. Citation

2. Interpretation

3. Application

4. Purpose of Regulations

5. Exceptions and Exclusions

6. Schedule to apply

7. General compliance duty

8. Carriage of documents

9. Detention

10. Penalties

11. Fraud, misuse of certificates, etc.

12. Offences in connection with inspections

SCHEDULE
IN EXERCISE of the powers conferred by section 400(1)(ba) of the Shipping Act, Chapter 363 of the Laws the Saint Vincent and the Grenadines, Revised Edition, 2009, the Minister makes the following Regulations:

SHIPPING (MARITIME LABOUR CONVENTION) REGULATIONS, 2017

1. These Regulations may be cited as the Shipping (Maritime Labour Convention) Regulations, 2017.

2. (I) In these Regulations, unless the context otherwise requires—

“Administration” means the Department of Maritime Administration established pursuant to Section 393 (1) of the Act;

“after consultation” means after conference or discussion with the appropriate shipowners’ and seafarers’ organisations or, in case there are none, employers’ and workers’ organisations, concerned with the matter in question;

“authorised officer”, for the purpose of inspections in ports in Saint Vincent and the Grenadines, means an approved surveyor or an approved inspector appointed under Section 356 of the Act;

“Code” means the part of the Convention which comprises Part A (mandatory Standards) and Part B (non-mandatory Guidelines) concerning implementation of the Regulations, as amended;

“Guideline” means a Guideline in Part B of the Code;

“ILo” means International Labour Organisation;

“IMO” means International Maritime Organisation;

“Port State Control” means persons authorised by the Competent Authority of Saint Vincent and the Grenadines, to carry out inspections pursuant to paragraph 4 of Article V of the Convention, on a foreign ship calling in its port, for the purposes of reviewing compliance with the requirements of the Convention relating to the working and living conditions of seafarers on the ship (including seafarers’ rights);

“proper officer” in relation to any function or activity in these regulations means a person authorised by the Director of the Maritime Administration to perform that function or activity;

“Standard” means a Standard in Part A of the Code;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended;

“Waters of Saint Vincent and the Grenadines” shall have the same meaning given under section 2 of the Maritime Areas Act;

“WHO” means World Health Organisation.

(2) Competent Authority” means—

(a) in reference to Saint Vincent and the Grenadines, and for the terms and conditions of employment, welfare, manning, hours of work and rest, accommodation, complaints on board a ship, and other related matters, the Director of the Maritime Administration, appointed under section 356 of the Act; or

(b) where appropriate, a proper officer; or

(c) for the terms and conditions of social welfare of seafarers and other related matters, the Director of
National Insurance or any officer or employee of the Board so delegated by the Director of National Insurance pursuant to section 8 of the National Insurance Act.

(3) Terms used in these Regulations, which are also used in the Convention, shall bear the meaning they have in the Convention.

(4) A reference in these Regulations to a code of practice is a reference to that code as for the time being in force in Saint Vincent and the Grenadines.

3. (1) These Regulations apply to—

(a) all seafarers;

(b) all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or similar pursuits;

(c) every shipowner of a Saint Vincent and the Grenadines ship ordinarily engaged in commercial activities, including such a shipowner who engages seafarer recruitment and placement services operated in, or provided from, a country outside Saint Vincent and the Grenadines.

(2) These Regulations shall not apply to warships, naval auxiliaries or other ships owned or operated by the Government of Saint Vincent and the Grenadines on non-commercial service.

(3) In the event of doubt as to whether—

(a) any categories of persons are to be regarded as seafarers; or

(b) these Regulations apply to a ship or a particular category of ships;

the question shall be determined by the Administration, after consultation.

(4) These Regulations, except regulation 7(7), apply to Saint Vincent and the Grenadines ships wherever they are.

(5) Regulations 7(7) and 9 to 12 apply to ships, which are not Saint Vincent and the Grenadines ships, when in the waters of Saint Vincent and the Grenadines.
4. It is the purpose of these Regulations to implement the Convention and to ensure that every seafarer has the right to—

(a) a safe and secure workplace that complies with safety standards;

(b) fair terms of employment;

(c) decent working and living conditions on-board ship; and

(d) health protection, medical care, welfare measures and other forms of social protection.

5. (1) The Administration may, after consultation, determine that all or any of the requirements of the Code shall not apply to ships of less than 200 gross tons not engaged on international voyages, in accordance with Article II. 6 of the Convention.

(2) The Administration shall determine the waters of Saint Vincent and the Grenadines, which are within, or closely adjacent to sheltered waters or areas where port regulations apply.

6. The Schedule, Column 2 of which implements the obligations in the Regulations and Code in the Convention, and contains ancillary provisions thereto, shall apply.

7. (1) It shall be the duty of the shipowner and the master of a Saint Vincent and the Grenadines ship to comply with and ensure compliance with these Regulations.

(2) It shall be the duty of any person—

(a) upon whom an obligation is imposed by these Regulations; or

(b) to whom a direction is given in pursuance of these Regulations, whether under sub-regulation (1) or otherwise,

to comply or ensure compliance with these Regulations, as the case may be.

(3) Where any natural or legal person other than the shipowner or master has control of a matter to which sub-regulation (1) relates because he has responsibility for that aspect of the operation of the ship, then any duty imposed by sub-regulation (1) shall extend to the person who has control of that matter.
(4) It shall be the duty of the shipowner and master to take all reasonable steps to ensure that a person referred to in sub-regulation (3) is aware of the duty imposed by that sub-regulation and is capable of performing it.

(5) In complying with any requirement of these Regulations the person doing so shall take into account any relevant Guideline and it shall be a defence to a charge of non-compliance with a requirement that the action taken was in accordance with a relevant provision of Part B Guidelines of the Code.

(6) Any question as to the meaning or extent of any requirement of the Schedule may be determined in accordance with a relevant Guideline.

(7) It shall be the duty of the shipowner and master of any ship, which is not a Saint Vincent and the Grenadines ship, when in the waters of Saint Vincent and the Grenadines, to comply with the Convention in the manner determined by the relevant body responsible for maritime administration of the ship’s flag state and in the case of ships flying the flag of a State, which is not party to the Convention the shipowner and master shall ensure that the ships meet the standards laid down in the Convention.

8. Every Saint Vincent and the Grenadines ship to which these Regulations apply shall carry a copy of the Convention and a copy of these Regulations, which shall be available to all seafarers working on the ship.

9. In any case where a ship does not comply with these Regulations, the ship shall be liable to be detained, provided that a ship shall not be unreasonably delayed or detained.

10. (1) Where a person specified in regulation 7 contravenes the provisions of that regulation that person commits an offence and is liable on summary conviction to a fine not exceeding thirty thousand dollars, or to a term of imprisonment not exceeding two years, or to both such fine and imprisonment;

(2) In proceedings for an offence under sub-regulation (1), it shall be a defence for a shipowner or master to prove that he did not have control of the matter to which the offence relates because he did not have responsibility for that aspect of the operation of the ship and that he has complained with regulation 7(4).
11. (1) No person shall—

(a) unless authorised by the Competent Authority, intentionally alter a certificate or declaration issued for the purposes of the Convention or these Regulations;

(b) falsely make a certificate or declaration referred to in the Convention;

(c) knowingly or recklessly furnish false information in connection with any inspection required by the Convention;

(d) with intent to deceive, use, lend, or allow to be used by another, a certificate or declaration referred to in the Convention;

(e) when required to surrender, fail to surrender a certificate or declaration that was issued for the purposes of the Convention.

(2) A person who contravenes sub-regulation (1) commits an offence and is liable on summary conviction to a fine not exceeding thirty thousand dollars, or to a term of imprisonment not exceeding two years, or to both such fine and imprisonment.

12. Any person who—

(a) obstructs a proper officer in the exercise of his powers under these Regulations; or

(b) without reasonable excuse, fails to comply with any requirement made by a proper officer acting in exercise of his powers under these Regulations; or

(c) knowingly gives a false answer to any question put to him by a proper officer acting in exercise of his powers under these Regulations,

commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars, or to a term of imprisonment not exceeding six months, or to both such fine and imprisonment.
SCHEDULE

Arrangement of Titles

Title 1: Minimum Requirements for a seafarer to work on a ship

1. Minimum age
2. Medical certification
3. Training and qualification
4. Recruitment and placement

Title 2: Conditions of employment

5. Employment agreements
6. Payment of wages
7. Hours of rest
8. Leave
9. Repatriation
10. Seafarers’ compensation
11. Manning

Title 3: Accommodation, recreational facilities, food and catering

12. Accommodation
13. Food and catering

Title 4: Health protection, medical care, welfare and social security protection

14. Medical care on-board ship and shore
15. Shipowners’ liability
16. Health and safety protection
Title 5: Compliance and enforcement

17. Recognised organisations
18. Certification
19. Complaints
20. Port state control

Appendix A
Appendix B
(i) the ILO Code, Accident Prevention On-board Ships at Sea and in Port 1996; and

(ii) such other guidance as the Administration may publish from time to time.

(e) Every Saint Vincent and the Grenadines ship shall carry on-board an up to date copy of the ILO Code, Accident Prevention board Ships at Sea and in Port, which may be in paper or electronic format provided that all the seafarers have access at any time to its content appropriate to their roles on-board.

(f) No shipowner shall levy or permit to be levied on any seafarer any charge in respect of anything done in pursuance of paragraphs (b) or (d).

(g) All accidents, injuries and diseases occurring on-board any Saint Vincent and the ship shall be reported to the Administration at the earliest possible opportunity following the occurrence in accordance with requirements published by the Administration.

(h) In every Saint Vincent and the Grenadines ship in which there are five or more seafarers the shipowner shall arrange for a Safety Committee to be established. The Safety Committee shall include representatives from all departments on-board.

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<th>Title 5 - Compliance and enforcement</th>
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<tr>
<td>17. Recognised organisations</td>
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<td>(a) The Classification Societies, members of the International Association of Classification Societies (IACS), which are recognised by the Administration and with which there is in place an agreement and provided that the Administration has satisfied itself as to their capability as required by Regulation 5.1.2 of the Convention, are recognised by the Administration as recognised organisations for the conduct of inspections and the issue of certification in accordance with these regulations.</td>
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(b) The Administration may from time to time authorise other recognised organisations and enter into an agreement with them.

(c) The recognised organisations referred to in paragraphs (a) and (b) shall have the authority defined in the agreement between them and the Administration and shall, in particular, have power to require the rectification of deficiencies that its surveyors identify in seafarer’s working and living conditions and to carry out inspections in this regard at the request of Port State Control.

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<th>18. Certification</th>
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<tr>
<td>(a) Except as provided in paragraph (b), every Saint Vincent and the Grenadines ship of 500 GT or over engaged in international voyages or operating from a port, or between ports, in another country shall carry -</td>
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<tr>
<td>(i) a valid Maritime Labour Certificate conforming to the model set out in the Convention; and</td>
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<tr>
<td>(ii) a Declaration of Maritime Labour Compliance conforming to the model set out in the Convention.</td>
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<td>(b) An Interim Maritime Labour Certificate valid for not more than six months may be issued to a ship in accordance with Standard A5.1.3 when -</td>
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<td>(i) it is a new ship on its delivery;</td>
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<td>(ii) it is a ship that has changed from another flag to the Saint Vincent and the Grenadines flag; or</td>
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<td>(iii) a shipowner assumes responsibility for the operation of the ship when the ship is new to him.</td>
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<td>(c) A vessel of less than 500 GT need not carry a Maritime Labour Certificate and Declaration of Maritime Labour Compliance but may elect to do so.</td>
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<td>(d) A Maritime Labour Certificate and Declaration of Maritime Labour Compliance issued in accordance with these Regulations shall cease to be valid -</td>
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<td>(i) if any of the inspections are not completed within the periods specified in the Convention;</td>
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(ii) if the certificate is not endorsed in accordance with the Convention;

(iii) if the ship changes flag to another flag;

(iv) when a shipowner ceases to have the responsibility for the operation of the ship; or

(v) when substantial changes are made to the structure or equipment covered by Title 3 of the Convention.

(e) The Administration or a recognised organisation on its behalf may withdraw a Maritime Labour Certificate from any Saint Vincent and the Grenadines ship, taking into account the seriousness or the frequency of any deficiencies if there is evidence that the ship concerned does not comply with the requirements of the Convention and these Regulations and any required corrective action has not been taken.

(f) Without prejudice to Part XVIII of the Act (Enforcement Officers and Powers), the appointment of proper officers for the verification-

(i) that the measures relating to working and living conditions as set out in the declaration of maritime labour compliance, where applicable, are being followed; and

(ii) that the requirements of the Convention are met, and the conduct of such inspections, shall be in accordance with Standard A 5.1.4

(g) The Competent Authority may authorise a proper officer referred to in paragraph (f) to require the rectification of deficiencies identified in seafarers' working and living conditions and to carry out inspections in this regard at the request of Port State Control.

(h) Nothing in paragraph 7(c) of Standard A 5.14 shall affect any right of appeal to the High Court against administrative action.

(i) If the shipowner proves that there was not reasonable and probable cause for action taken by a proper officer the Minister shall pay him compensation for loss or damage caused by the action.
19. Complaints

(a) No person shall victimise any seafarer for filing a complaint and victimisation shall be an offence subject to the penalties specified in Regulation 10 of these regulations.

(b) Every shipowner shall develop a formal complaints procedure that is available to all the seafarers on-board ships for which he is responsible and such procedure shall-

(i) seek to resolve complaints at the lowest level possible but shall not prevent a seafarer from making a complaint directly to the ship's master, shipowner or the Administration, where the seafarer considers it necessary or appropriate;

(ii) provide for the seafarer making a complaint to have the right to be accompanied or represented during the procedure; and

(iii) include safeguards against victimisation of any seafarer making a complaint where victimisation includes any adverse action taken against a seafarer by any person following a complaint which is not malicious or vexatious.

(c) Notwithstanding the general standards in paragraph (b), a complaints procedure shall ensure that-

(i) complaints are addressed to the head of the department in which the seafarer works or to his superior officer;

(ii) resolution is attempted by the head of department or the superior officer within seven days;

(iii) when resolution by the head of department or the superior officer is not successful the seafarer can take the matter to the master who shall deal with it within a period of seven days;

(iv) any seafarer making a complaint is allowed to be accompanied and to be represented by another seafarer of their choice on-board the ship;

(v) all complaints and the decisions made are recorded and a copy of the record is made available to the seafarer concerned;
(vi) when a complaint cannot be resolved on-board the seafarer then has ten days to refer to the shipowner or his representative a shore, through the Master, who shall resolve the matter within thirty days;

(vii) the shipowner or his representative and the seafarer shall have a period of thirty days to resolve the matter, and

(viii) if thereafter the matter is not resolved, either party may within thirty days bring the matter to the Administration for resolution.

(d) Every seafarer shall be provided with a copy of the on-board complaints procedure put in place by the shipowner and with the Administration's contact information and contact information for the maritime authorities in the seafarer's country of residence.

(e) Every seafarer shall be provided, in addition to the complaints procedure, with the name of the person or persons on-board who can on a confidential basis, provide him with impartial advice on a complaint or otherwise assist him.

(f) In accordance with Article VI of the Convention the Administration accepts as a substantial equivalent, provision of the identity of a position on-board as meeting the requirements of paragraph (e).

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<th>20. Port state control</th>
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<td>(a) Seafarers in a Saint Vincent and the Grenadines ship in any port and seafarers on Saint Vincent and the Grenadines ships and other ships calling at a port in Saint Vincent and the Grenadines who allege a breach of the requirements of the Convention (including seafarers' rights) have the right to report such a complaint in order to facilitate a prompt and practical means of redress.</td>
</tr>
<tr>
<td>(b) Inspections under paragraph (a) shall be carried out by a proper officer or the Competent Authority. The conduct of such inspections including action taken as a result of them, shall be in accordance with Standard A5.2.1, paragraphs 1 to 6.</td>
</tr>
</tbody>
</table>
APPENDIX 2 - Circular № MLC 002

ST. VINCENT AND THE GRENADINES
MARITIME ADMINISTRATION

CIRCULAR № MLC 002- Rev. 7

PROCEDURES FOR
MARITIME LABOUR CONVENTION CERTIFICATION

TO: RECOGNIZED ORGANIZATIONS (RO), FLAG STATE INSPECTORS, SHIP OWNERS, SHIPS’ OPERATORS AND MANAGERS, MASTERS AND SEAFARERS

APPLICABLE TO: ALL SHIPS WHICH ARE SUBJECT TO MLC 2006 CERTIFICATION

EFFECTIVE AS FROM: 08th January 2019

16th May 2019

Maritime Labour Convention, 2006 (MLC 2006)

1. Introduction

1.1 On 9th November 2010, St. Vincent and the Grenadines (SVG) deposited its ratification of the MLC, 2006 with the International Labour Office (ILO), making it the eleventh (11th) maritime country to ratify.

1.2 St Vincent and The Grenadines has promulgated Shipping (Maritime Labour Convention) Regulations 2017 in order to give effect to the MLC 2006. The regulations are annexed to this circular.

1.3 ROs, and inspectors authorized by this Administration may proceed with Inspection of St. Vincent and The Grenadines’ ships based on these regulations, DMLC Part I and the DMLC Part II.

1.4 A provisional copy of a Declaration of Maritime Labour Compliance – Part I, (DMLC Part I), annexed to this Circular, is available to assist shipowners/managers and seafarers in preparing for MLC 2006 compliance and certification.

2. Application

2.1 Ships

2.1.1 The MLC 2006 applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities other than:
2.1.1.1 Ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply:
2.1.1.2 Ships engaged in fishing or similar pursuits;
2.1.1.3 Ships of traditional build such as dhows and junk; and,
2.1.1.4 Warships or naval auxiliaries.

2.1.2 Commercial activity is considered to be any maritime activity undertaken for the purpose of generating revenue.

2.1.3 St Vincent and The Grenadines Maritime Administration, (the Administration), shall determine the waters of St. Vincent and The Grenadines which are within or closely adjacent to sheltered waters or areas where port regulations apply.

2.2 Exceptions and Exclusions

2.2.1 The Administration may, after consultation with ship owners’ and seafarers’ organizations concerned, determine that all or any of the requirements of the Code which forms part of the MLC 2006 shall not apply to ships of less than 200 gross tonnage (GT) not engaged on international voyages and communicate such exceptions and exclusions to the Director-General of the ILO and to other interested parties.

2.3 Seafarers

2.3.1 The MLC 2006 applies to all seafarers.

2.3.1.1 A Seafarer is any person who is employed or engaged or works in any capacity on-board a ship to which the MLC, 2006 applies.

2.3.1.2 In accordance with Resolution VII adopted 22nd February 2006, by the 94th (Maritime) Session of the International Labour Conference held in Geneva, the term “seafarer” means the Master and everyone working on-board including shopkeepers, resident entertainers, hairdressers and similar persons.

2.3.2 Persons whose work is not part of the routine business of the ship and whose principal place of business is ashore are NOT considered as seafarers. The following categories of persons are therefore not considered as seafarers:

2.3.2.1 scientists, researchers, divers, specialist off-shore technicians, etc.
whose work is not part of the routine operation of the ship;

2.3.2.2 harbour pilots, inspectors, surveyors, auditors, superintendent who although trained and qualified in maritime skills and perform key specialist functions, their work is not part of the routine operation of the ship;

2.3.2.3 guest entertainers, repair technicians, port workers whose work is occasional and short term with their principal place of employment being ashore; and

2.3.4 non-marine personnel, employed under outsourced service agreements, the terms of which determine the conditions under which the service provider will supply the necessary personnel;

2.3.3 In doubt as to whether any categories of persons should be regarded as seafarers, the matter will be determined by the Administration, after consultation with the shipowners’ and seafarers’ organizations concerned.
3. Exemptions

3.1 The MLC 2006 allows very limited options for exemption from Title 3 (Accommodation, Recreational Facilities, Food, Catering and Water).

3.2 Exemptions may only be agreed in consultation with the seafarers’ and shipowners’ organizations concerned or through the Special Tripartite Committee at the ILO.

3.3 The Administration strongly recommends to shipowners to strive for full compliance where possible without relying on exemptions since both processes (consultation with the seafarers’ and shipowners’ organizations concerned or through the Special Tripartite Committee at the ILO) are expected to be lengthy.

3.4 For ships of less than 200 GT, shipowners may seek to obtain an exemption from the requirements for accommodation, (as provided in paragraph 20 of Standard A3.1), where it is reasonable to do so, taking into account the size of the ship and the number of persons on-board. Such requests for exemptions should be clearly justified on strong grounds and subject to protecting the seafarers’ health and safety.

3.5 Any shipowner who wishes to obtain an exemption should submit an application to the Administration for consideration well in advance of the application for the issue of the ships’ DMLC Part I.

4. Recognized Organizations and Inspectors

4.1 The Administration are to the extent outlined at paragraph 4.2, has delegated inspection and certification functions under the MLC, 2006 to the following Recognized Organizations (ROs):

- American Bureau of Shipping (ABS)
- Bureau Veritas (BV)
- China Classification Society (CCS)
- Croatian Register of Shipping (CRS)
- Det Norske Veritas (DNV)
- Germanischer Lloyd (GL)
- Indian Register of Shipping (IRS)
- International Naval Surveys Bureau (INSB)
- Hellenic Register of Shipping (HRS)
- Korean Register of Shipping (KR)
- Lloyds Register (LR)
- Nippon Kaiji Kyokai (NKK)
- Polski Rejestr Statków (PRS)
- Registro Italiano Navale (RINA)
- Russian Maritime Register of Shipping (RS)

4.2 The inspection and certification functions to be carried out by ROs include the following:

4.2.1 Approval of Plans and Drawings in respect of the Title 3 of MLC 2006;
4.2.2 Approval of Declaration of Maritime Labour Compliance Part II;
4.2.3 Interim inspection and issuance of Certificate;
4.2.4 Initial inspection and issue of a Short Term Certificate;
4.2.5 Intermediate inspection and endorsement of Certificate;
4.2.6 Renewal inspection and issue of a Short Term Certificate;
4.2.7 Withdrawal of a Certificate;
4.2.8 Require the rectification of deficiencies found during the inspections;
4.2.9 Inspections at the request of a Port State for the rectification of the deficiencies found during a Port State Control (PSC) inspection; and
4.2.10 Investigate complaints if specifically authorized by the Administration.
Responsibility for the resolution of a complaint remains with SVG.

4.3. The Administration may, on a case by case basis, authorize inspectors who are qualified, possess the training and competence outlined in Standard 5.1.4, to discharge any or all of the functions at 4.2 and to undertake related activities outlined in this Circular.

5. Inspection and Certification

5.1 General Requirements

5.1.1 MLC 2006 requires all ships of 500 GT or more to carry a Maritime Labour Certificate (MLC Certificate). It is not mandatory for vessel of less than 500 GT to have a Certificate on-board but, such a certificate can be issued on a voluntary basis if requested.

5.1.2 Whether certificated or not, all ships trading internationally should comply with the MLC 2006 when it enters into force.

5.1.3 The Administration recommends that shipowners/managers of vessels of less than 500 GT should apply voluntarily for a Certificate of Compliance in order to reduce possible problems with PSC. However, these vessels are subject to inspections and a RO should provide the relevant report on-board.

5.1.4 The Administration strongly recommends to shipowners/managers to apply for MLC 2006 certification as soon as possible. All ships should be inspected and certified, as applicable, by 20th August 2013, in respect of the MLC 2006.

5.1.5 As part of the certification process, it will be verified that the conditions for seafarers on ships relating to working and living conditions as set out in the DMLC, where applicable, are being followed and that the requirements of MLC 2006 are met.

5.1.6 The scope of inspection for initial, interim or renewal of the Maritime Labour Certificate should include the fourteen (14) items referred to in Appendix A5-I of MLC 2006.

5.1.7 The ILO Guidelines for Flag State Inspections expand upon the requirements for inspection to include in addition to the fourteen (14) items:

5.1.7.1 Entitlement to Leave (Regulation 2.4)
5.1.7.2 Repatriation (Regulation 2.5)
5.1.7.3 Shipowners’ Liability (Regulation 4.2)
5.1.7.4 Social Security (Regulation 4.5)
5.1.7.5 General Principles – Certification (Standard A5.1.1)

5.1.8 As with surveys for other statutory certificates, shipowners should contact their Classification Society for MLC 2006 inspections.
5.1.9 After conducting an MLC 2006 inspection of any SVG ship, the RO shall provide an inspection report to the Administration, whether the ship is certificated or not.
5.2 Accommodations and On-board Recreational Facilities

5.2.1 New Ships

5.2.1.1 Accommodation and on-board recreational facilities of new ships, other than pleasure vessels, including pleasure yachts with limited charter allowance, shall meet the provisions set out in Paragraphs 6 to 17 of Standard 3.1 and Part B3.1 of MLC 2006. Variations may be allowed in the interests of seafarers having differing and distinctive religious and social practices.

5.2.2 Existing Ships

5.2.2.1 Existing ships are defined as ships whose keel laying dates are before 20th August 2013, the date on which the MLC 2006 enters into force.

5.2.2.2 Existing ships should be inspected by ROs or Inspectors to ensure that the accommodation and recreational facilities are clean and maintained in condition which promotes seafarers health and well-being.

5.2.2.3 Existing ships are required to comply with the accommodation and recreational facilities in ILO Conventions C92 and C133 (as recommended in the ILO “Guidelines for Flag State Inspections under the MLC, 2006” – ILO ISBN 978-92-2-121741-1). Those Guidelines provide, at Paragraph 2 of Regulation 3.1, that ships that were in existence before entry into force of the MLC, 2006 will be inspected in connection with seafarers’ accommodation and recreational facilities to verify that the ship provides and maintains decent accommodation and recreational facilities for seafarers working or living on-board, or both, consistent with promoting the seafarers’ health and well-being in accordance with national legislation.

5.2.2.4 ROs and Inspectors conducting initial inspection of SVG ships should complete annexed checklist for accommodation of existing ships. This document should be retained on-board as long as the ship remains registered with SVG.

5.2.2.5 Any alteration other than substantial alteration of accommodation and recreational facilities of existing ships should be carried out in accordance with ILO Conventions C92 and C133.

5.2.2.6 Any substantial alteration of accommodation and recreational facilities of existing ships should be carried out in accordance with the MLC 2006.

5.3 Procedure for Shipowners/Managers to obtain MLC 2006 Certification (Initial Inspection)

5.3.1 Shipowners/managers should conduct a gap analysis of the ship and Company policy against the SVG Implementing Regulations (including the DMLC Part I).

5.3.2 Any areas of concern raised from the gap analysis should be discussed with the relevant RO or Inspector.

5.3.3 Shipowners/managers should have documented procedures to comply with the requirements of the MLC 2006. The Master should be familiar with the requirements of the MLC 2006 and the responsibilities for its implementation.
5.3.4 Shipowners/managers should make a formal request to the Administration for the issue of a ship's specific DMLC Part I.

5.3.5 An additional fee may be required for the review of any requested exemption or equivalency.

5.3.6 DMLC Part I will be issued by the Administration with a copy to the RO. A PDF copy will be e-mailed to the shipowner and the original will be couriered to the shipowner's attention. The DMLC Part I will include exemptions and/or equivalences authorized by the Administration, if any. (Please refer to Paragraph 3 - Exemptions).

5.3.7 In order to prepare the vessel for an initial MLC 2006 inspection the shipowners/managers should complete the DMLC Part II which is available on the Administration’s website. The RO or inspector may be consulted for general guidelines. In completing the DMLC Part II shipowners should be guided by the sample in Appendix B5-1 to the MLC 2006.

5.3.8 DMLC Part II prepared by the shipowners/managers should be submitted together with the ship’s specific DMLC Part I to the RO for review and acceptance of DMLC Part II.

5.3.9 Upon review of both DMLC Part I and DMLC Part II and acceptance of DMLC Part II, the ship's initial MLC 2006 inspection should be agreed with a RO. (Please note that review and acceptance of DMLC Part II may also be carried out on-board during an initial MLC 2006 inspection). The Administration strongly recommends that shipowners/managers submit the DMLC Part II to the RO in a timely manner to allow ample time for rectification of discrepancies, if any.

5.3.10 Upon satisfactory initial inspection, the RO should issue a Short Term ML Certificate valid for up to five (5) months and approve the DMLC Part II. Originals of DMLC Part I (issued by the Administration) and the DMLC part II (completed by the shipowners/managers and approved by the RO) should be kept on-board together with the Short Term ML Certificate (issued by the RO).

5.3.11 The RO should forward as soon as possible a copy of the Short Term ML Certificate, DMLC Part I, DMLC Part II and inspection report/inspection log to the Administration.

5.3.12 Shipowners/managers should apply to the Administration for the issue of a Full Term ML Certificate. The application should be submitted to the Administration within three (3) months of the date of the initial inspection.

5.3.13 Upon receipt of the documentation and application indicated at 5.3.11 and 5.3.12 respectively (above), the Administration will issue a Full Term ML Certificate valid for five (5) years from the date of the initial inspection. The originals of the Full Term ML Certificate, DMLC Part I and DMLC Part 2 (approved by an RO) should be kept on-board.

5.3.14 All SVG ships to which the MLC 2006 applies should have Short Term or Full Term ML Certificates on-board by 20th August 2013.

5.3.15 The application forms for the issue of a ship specific DMLC Part I and for Full Term ML Certificate as well as the general DMLC Part I are available on the Administration's website.
5.4 Procedure for Shipowners/Managers to Obtain Interim ML Certificate

5.4.1 An Interim ML Certificate may be issued as follows:
5.4.1.1 to new ships on delivery;
5.4.1.2 when a ship changes flag; or
5.4.1.3 when a shipowner assumes responsibility for the operation of a new ship.

5.4.2 An Interim Maritime Labour Certificate may be issued by an RO for a period not exceeding six (6) months. Interim certificates will not be extended or reissued.

5.4.3 The shipowner/manager should conduct a gap analysis of the ship and Company policy against the SVG Implementing Regulations (including the DMLC Part I).

5.4.4 Any area(s) of concern raised from the gap analysis should be discussed with the relevant RO or inspector.

5.4.5 The shipowner/manager should have adequate procedures to comply with the requirements of the MLC 2006. The Master should be familiar with the requirements of the MLC 2006 and be responsible for its implementation onboard.

5.4.6 The shipowner/manager should apply to the Administration for the issue of a ship’s specific DMLC Part I.

5.4.7 The shipowner/manager should arrange for an interim MLC 2006 inspection of the vessel to be carried out by an RO. DMLC Part II is not required for interim ML inspection/certification.

5.4.8 Upon a satisfactory interim MLC 2006 inspection, the RO should issue an Interim ML Certificate valid for six (6) months. No further Interim ML Certificate will be issued.

5.4.9 The KU should forward as soon as possible a copy of the Interim ML Certificate and inspection report/inspection log to the Administration.

5.5 Intermediate Inspection and Endorsement of the ML Certificate

5.5.1 The validity of the ML Certificate will be subject to the intermediate inspection. The scope and depth of the intermediate inspection should be equal to an inspection for the renewal of the ML Certificate.

5.5.2 If only one intermediate inspection is carried out and the period of validity of the certificate is five years, it should take place between the second and third anniversary dates of the certificate.

5.5.3 The ML Certificate should be endorsed by the RO, after a satisfactory intermediate inspection.

5.5.4 The RO should submit to the Administration a copy of the endorsed ML Certificate and intermediate Inspection Report no later than thirty (30) days after completion of the intermediate inspection.
5.5.5 The ML Certificate will cease to be valid if the intermediate inspection is not carried out as required, (i.e. between the second and third anniversary date of the ML Certificate).

6.6 The Renewal of the Inspection and Renewal of the ML Certificate

6.6.1 All national requirements (as per initial inspection) implementing the MLC 2006 need to be verified during the ML Certificate renewal inspection.

6.6.2 When the renewal inspection has been satisfactorily completed by the RO within three (3) months before the expiry date of the existing ML Certificate, issued before 08.01.2019, a Short Term ML Certificate valid for five (5) months should be issued by the RO.

6.6.2.1 At the request of shipowner's and upon receipt of the report of renewal inspection and a Short Term ML Certificate from the RO, the Administration will issue a new Full Term ML Certificate. This certificate will be valid for a period of five (5) years from the date of expiry of the existing ML Certificate.

6.6.2.2 Shipowners/Managers should apply to the Administration for the issue of a new Full Term ML Certificate. The application should be submitted to the Administration within three (3) months from the date of the renewal inspection.

6.6.3 When the renewal inspection has been satisfactorily completed by the RO within three (3) months before the expiry date of the existing ML Certificate, issued after 08.01.2019, the certificate may be extended/endorsed by RO in accordance with Standard A5.1.3. paragraph 4 of the Convention in order to allow the new certificate to be issued and available on board or the RO may issue a Short Term ML Certificate valid for five (5) months.

6.6.3.1 At the request of shipowner's and upon receipt of the report of renewal inspection and an extended ML Certificate or Short Term ML Certificate, the Administration will issue a new Full Term ML Certificate. This certificate will be valid for a period of five (5) years from the expiry date of the existing ML Certificate.

6.6.3.2 Shipowners/Managers should apply to the Administration for the issue of a new Full Term ML Certificate. The application should be submitted to the Administration within three (3) months from the date of the renewal inspection.

6.6.4 When the renewal inspection is satisfactorily completed more than three (3) months before the expiry date of the existing ML Certificate, the new ML Certificate will be valid for a period not exceeding five (5) years, from the date of completion of the renewal inspection.

6.6.5 When a ship which it is to be verified is not in port at the time when its Certificate expires, the Administration may extend the period of validity of the Certificate, but this extension will only be granted for the purpose of allowing the ship to complete its voyage to the port in which it is to be verified. No Certificate will be extended more than three (3) months for this purpose. Documented evidence from the Administration granting this request should be reviewed by the RO prior endorsing the extension.

6.6.6 When the renewal inspection is satisfactorily completed after the expiry date of the existing Certificate, the new Certificate will be valid from the date of the completion of the renewal inspection to a date not exceeding five (5) years from the date of expiry of the existing certificate.
5.7 Cessation (Invalidation) of Certificates

5.7.1 A ML Certificate and a DMLC will cease to be valid if any of the following situations arises:
   5.7.1.1 Required inspections as stated above are not carried out;
   5.7.1.2 ML Certificate is not endorsed at the intermediate inspection;
   5.7.1.3 When the shipowner/manager is no longer responsible for the operation of the ship;
   5.7.1.4 A ship changes flag;
   5.7.1.5 Substantial modifications made to the structure or equipment; or
   5.7.1.6 Amendments to national laws or regulations or other measures implementing the MLC 2006 are not taken into account.

5.8 ML Certificate and DMLC withdrawal

The ML Certificate and the DMLC will be withdrawn by the Administration or the RO if there is evidence of serious or frequent deficiencies and the required corrective action has not been taken.

5.9 Change of Flag

To support the timely re-certification when a ship changes flag, (see 5.7.1.3 above), the Administration undertakes to implement the guidelines in the MLC 2006 concerning transmission of ML Certificate, DMLC and relevant inspection reports, B5.1.3.6 of which provides:

When a ship changes flag ... and where both States concerned have ratified this Convention, the Member whose flag the ship was formerly entitled to fly should, as soon as possible, transmit to the competent authority of the other Member copies of the maritime labour certificate and the declaration of maritime labour compliance carried by the ship before the change of flag and, if applicable, copies of the relevant inspection reports if the competent authority so requests within three months after the change of flag has taken place.

5.10 Significance of the DMLC Parts I and II

The DMLC Parts I and II are of critical importance. Part I states the requirements of national law. Part II states the measures that the shipowner has adopted on-board to actually give effect to the law. It is effectively these two documents that will form the inspection standard for the issue of a Maritime Labour Certificate or for any Port State Control or other inspection.

6. On-board Complaint Procedures

6.1 It is a mandatory requirement for shipowners to establish on-board procedures for the fair, effective and prompt handling of the seafarers’ complaints alleging breaches of the requirements of MLC 2006, including seafarers’ rights, in accordance with the national requirements and the requirements of MLC 2006.

6.2 It is also mandatory for shipowners to ensure that each seafarer is provided with:
6.2.1 A copy of the complaint procedures;
6.2.2 The shipowner’s contact details or the contact details of the shipowner’s representative ashore who is responsible for handling and solving the complaints;
6.2.3 The contact details for SVG’s point of contact for receipt of complaints. (See paragraph 8.2); and,
6.2.4 The contact details for the Competent Authority in the seafarer’s country of residence.

6.3 The procedures should be designed to resolve complaints at the lowest possible level but should not prevent a seafarer from making a complaint directly to the Master, to the shipowner, to the Administration or to the Competent Authority for the MLC 2006 in the seafarer’s country of residence, if the seafarer considers it necessary.

6.4 The complaint system should include safeguards against victimization.

6.5 The complaints system should at least ensure that:

6.5.1 The complainant seafarer briefly describes his/her complaint.
6.5.2 The complainant seafarer should submit his/her complaint in writing within seven (7) days of the occurrence, or according to the circumstances, following the hierarchy below:
   • Superior Officer
   • Head of Department
   • Master

6.5.3 Each of the indicated rank has a further seven (7) days to solve the complaint.
6.5.4 If the Master is unable to solve the complaint, the seafarer will have ten (10) days to bring it through the Master to the shipowner, or if the complaint is to the prejudice of the Master, then directly to the shipowner or his representative ashore.
6.5.5 The shipowner or his representative ashore and the seafarer concerned will have a period of thirty (30) days to solve the complaint.
6.5.6 If after thirty (30) days, the complaint has not been solved, either party will have a further thirty (30) days to bring the matter to the Administration.

6.6 Seafarers making a complaint may be accompanied or represented during the complaint procedure. Each seafarer should be provided with the name of a person on-board who can provide impartial advice on a complaint on a confidential basis.

6.7 As a substantial equivalent, the Administration accepts that the identity of a position on-board may be substituted for the name of a person.

7. Financial Security

7.1 The amendments to the Maritime Labour Convention 2006 which is entering into force on 18 January 2017. After this date, ships that are subject to the MLC will be required to display certificates issued by an insurer or other financial security provider confirming that insurance or other financial security is in place for liabilities in respect of:

   • outstanding wages and repatriation of seafarers together with incidental costs and expenses in accordance with MLC Regulation 2.5, Standard A2.5.2 and Guideline B2.5,
and compensation for death or long-term disability in accordance with Regulation 4.2., Standard A4.2. and Guideline B4.2.

Please refer to the circular MLC 008.

8. Administration Contact

8.1 In accordance with the Regulation 5.1.5 of the MLC 2006 seafarers should be provided with a copy of the on-board complaints procedures which include contact details of the competent authority.

8.2 SVG's point of contact for receipt and resolution of seafarer complaints (paragraph 6.2.3) is:

<table>
<thead>
<tr>
<th>The Registrar of Seafarers</th>
<th>First Floor, Cruise Ship Terminal</th>
</tr>
</thead>
<tbody>
<tr>
<td>C/o Commissioner for Maritime Affairs</td>
<td>Upper Bay Street, Kingstown</td>
</tr>
<tr>
<td>8, Av de Frontenex</td>
<td>Saint Vincent and the Grenadines</td>
</tr>
<tr>
<td>1207 Geneva</td>
<td>Tel: +1 784 456 1378</td>
</tr>
<tr>
<td>Switzerland</td>
<td>Fax: +1 784 451 2445</td>
</tr>
<tr>
<td>Tel: +41 (0) 22 707 63 00</td>
<td>Email: <a href="mailto:svgramarad@gmail.com">svgramarad@gmail.com</a></td>
</tr>
<tr>
<td>Fax: +41 (0) 22 707 00 49</td>
<td></td>
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</table>

Email: technical@svgr-marad.com

Annexes to this Circular:
- DMLC Part I
- Application for the issue, change or renewal of a ML Certificate
- Checklist for accommodation of existing ships
- Model of on-board complaint handling procedures
- Ship master's Report Form (Model)
- DMLC Part II
- ML Certificate
- Application for the issue or change of a DMLC Part I
- Shipping (Maritime Labour Convention) Regulations 2017

REVISION HISTORY

- Rev. 3 - date of the Circular inserted, Annex, DMLC Part I, 10. Food and Catering and Application for the issue of a Maritime Labour (ML) Certificate.
- Rev. 4 - date of the Circular inserted, Annex, Application for the issue or Change of a Declaration of Maritime Labour Compliance (DMLC) Part I.
- Rev. 6 - date of the Circular inserted, Paragraph 1.2, Paragraph 5.6.8 (added), Annex, Declaration of Maritime Labour Compliance – Part I, ML Certificate, Application for the
APPENDIX 3 – Application for the issue of DMLC Part 1

ST. VINCENT AND THE GRENADINES
MARITIME ADMINISTRATION

APPLICATION FOR THE ISSUE OR CHANGE OF A DECLARATION OF MARITIME LABOUR COMPLIANCE (DMLC) PART I

<table>
<thead>
<tr>
<th></th>
<th>Name of Vessel</th>
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<tbody>
<tr>
<td>1.2</td>
<td>Official Number</td>
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</tr>
<tr>
<td>1.3</td>
<td>IMO Number</td>
<td></td>
</tr>
<tr>
<td>1.4</td>
<td>Gross Tonnage</td>
<td></td>
</tr>
<tr>
<td>1.5</td>
<td>Ship's Type</td>
<td></td>
</tr>
<tr>
<td>1.6</td>
<td>Date of keel laid</td>
<td></td>
</tr>
<tr>
<td>1.7</td>
<td>Shipowner * (name and address)</td>
<td></td>
</tr>
</tbody>
</table>

Point 2 should be completed when a Shipowner responsible for MLC is not the Registered Owner**:

The entity indicated in point 1.7 above has assumed the responsibility for the operation of the following ship from the Registered Owner and, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on Shipowners in accordance with this Convention, regardless of whether any other organization or persons fulfill certain of the duties or responsibilities on behalf of the Shipowner.

<table>
<thead>
<tr>
<th></th>
<th>Place and Date</th>
<th>Signed on behalf of Registered Owner**</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Print full name and position:</td>
</tr>
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</table>

| 3   | Application for the issue of a DMLC Part I due to the following: |
| 3.1 | interim Inspection |
| 3.2 | Initial Inspection |
| 3.3 | Change of Ship's name, type, gross tonnage, equivalency or exemption*** |
| 3.4 | Change of Shipowner's name or address |
| 3.5 | Substantial changes to the ship's structure or equipment |
| 3.6 | MLC Amendments |

| 4   | Application for Substantial Equivalencies under Article VI, paragraphs 3 and 4, of the MLC 2006 |
|     | Please indicate the reason(s) and justification(s) for requesting a Substantial Equivalency (additional sheet(s) may be annexed): |

| 5   | Application for Exemptions under Title 3 of the MLC 2006 |
|     | Please indicate the reason(s) and justification(s) for requesting an Exemption (additional sheet(s) may be annexed): |

Please specify the mailing address where the DMLC Part I will be forwarded

| 6   | (if DHL, courier is requested, in addition to the address, please specify PIC and phone number) |

| 7   | Place and Date | Signed on behalf of Shipowner* |
|     |               | Print full name and position: |

Note: * 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 organization or persons fulfill certain of the duties or responsibilities on behalf of the shipowner. For vessels to which ISM Code applies it should be the “Company” in accordance with paragraph 1.1.2 of the ISM Code.

**Registered Owner as indicated in the Certificate of Registry and the Continuous Synopsis Record (if any).

***Delete as appropriate
APPENDIX 4 – Declaration of Maritime Labour Compliance

ST. VINCENT AND THE GRENADINES
MARITIME ADMINISTRATION

No: DMLC Part I/Off No/d/mmy/yy/

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
St. Vincent and The Grenadines Department of Maritime Administration (The Administration)

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

<table>
<thead>
<tr>
<th>Name of Ship</th>
<th>IMO Number</th>
<th>Gross tonnage</th>
</tr>
</thead>
</table>

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

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

(a) the provisions of the Maritime Labour Convention 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 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 referenced under the requirements concerned.

1. Minimum age (Regulation 1.1)

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>.1 No person under the age of 16 shall be employed or engaged or work on-board a ship.</td>
<td></td>
</tr>
<tr>
<td>.2 Night means a period of 9 consecutive hours beginning no later than 21:00 and ending no earlier than 06:00.</td>
<td></td>
</tr>
<tr>
<td>.3 Persons under age of 18 may be engaged in night work if it is part of a recognized training programme.</td>
<td></td>
</tr>
<tr>
<td>.4 No seafarer under the age of 18 shall be employed or engaged or work as a ship's cook.</td>
<td></td>
</tr>
<tr>
<td>.5 Unless trained and certified, no person under the age of 18 shall be employed or engaged or work as per B 4.3.1, Para 2 and working with heat or fire (such as welding and flame-cutting), work in enclosed or confined spaces, work aloft and work outboard and other types of work as the Competent Authority may determine after consultation.</td>
<td></td>
</tr>
</tbody>
</table>

2. Medical certification (Regulation 1.2)

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>.1 All seafarers shall be in possession of a medical certificate issued, in accordance with STCW 1978, as amended, by a medical practitioner authorized to issue such certificates in the country of issue, provided that country is a party to the MLC 2006 (hereafter called the Convention) or the STCW Convention.</td>
<td></td>
</tr>
<tr>
<td>.2 Medical certificates shall comply with the standards in the STCW Convention and be issued following the procedures set out in the ILO/WHO Guidelines.</td>
<td></td>
</tr>
</tbody>
</table>

3. Qualification of seafarers (Regulation 1.3)

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>.1 Seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties and they have successfully completed training for personal safety on-board ship. Training and certification in accordance with the STCW Convention shall be accepted as meeting the requirements of this Paragraph.</td>
<td></td>
</tr>
</tbody>
</table>
4. Seafarers' employment agreements (Regulation 2.1)
Shipping (Maritime Labour Convention) Regulations, 2017, Reg 6, Para 5

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>1.</td>
<td>Every seafarer shall have an employment agreement in accordance with the conditions set out in Standard A.2.1 of the Convention. A Collective Bargain Agreement may form all or part of a seafarers' employment agreement (SEA).</td>
</tr>
<tr>
<td>2.</td>
<td>Seafarers employment shall be recorded in a Saint Vincent and the Grenadines Seamen's Book.</td>
</tr>
<tr>
<td>3.</td>
<td>The duration of the minimum notice periods for the SEA early termination to be given by seafarers and shipowners is seven (7) days. Seafarers may terminate an agreement at less than seven (7) days notice as follows:</td>
</tr>
<tr>
<td>4.</td>
<td>Shipowners may terminate the agreement at less than seven (7) days notice if:</td>
</tr>
</tbody>
</table>

<p>| | |</p>
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<tr>
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</thead>
<tbody>
<tr>
<td>1.</td>
<td>the ship is sold or lost;</td>
</tr>
<tr>
<td>2.</td>
<td>the seafarer is unable to continue to perform his duties due to illness or injury, or;</td>
</tr>
<tr>
<td>3.</td>
<td>the seafarer is determined to be incompetent or guilty of a serious disciplinary offence.</td>
</tr>
</tbody>
</table>

5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4)
Shipping (Maritime Labour Convention) Regulations, 2017, Reg 6, Para 4

<p>| | |</p>
<table>
<thead>
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</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Seafarer Recruitment and Placement Services (SRPS) in Saint Vincent and the Grenadines shall be licensed by the Competent Authority.</td>
</tr>
<tr>
<td>2.</td>
<td>Shipowner shall ensure that the SRPS has a document confirming compliance with the standard A1.4 of the Convention and authorization by a relevant party to the Convention to operate as a SRPS. The shipowner shall request from the SRPS and keep on record as evidence of compliance with this regulation a copy of the SRPS document of compliance and authorization.</td>
</tr>
<tr>
<td>3.</td>
<td>Shipowners using SRPS in countries in which are not parties to the Convention shall ensure, as far as practicable, that those SRPS conform to the standards set out in Standard A1.4 of the Convention and shall have evidence of steps taken in this regard.</td>
</tr>
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</table>

6. Hours of rest (Regulation 2.3)
Shipping (Maritime Labour Convention) Regulations, 2017, Reg 6, Para 7

<p>| | |</p>
<table>
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<tbody>
<tr>
<td>1.</td>
<td>Every seafarer shall receive the hours of rest specified in Standard A2.3 of the Convention. Hours of rest do not include short breaks of less than 1 hour.</td>
</tr>
<tr>
<td>2.</td>
<td>A table of the shipboard working arrangements shall be posted in accordance with Standard A2.3 Paragraph 10 in the format published by the IMO/ILO.</td>
</tr>
<tr>
<td>3.</td>
<td>Records of seafarers daily rest hours shall be maintained in the published IMO/ILO format. Every seafarer shall receive the hours of rest specified in Standard A2.3 of the Convention which shall be endorsed by the master or a person authorized by the master and by the seafarer. As a substantially equivalent measure the Competent Authority accepts that the records may be in an electronic format provided that each seafarer has access to it, can obtain a printed copy, and is able (as well as the Master) to endorse his/her record electronically and the records are in a format recognizable similar to the IMO/ILO format, protected against tampering and available readily to auditors, inspectors and PSC officers.</td>
</tr>
<tr>
<td>4.</td>
<td>Mandatory drills and training shall be arranged so as to minimize the disturbance to hours of rest.</td>
</tr>
<tr>
<td>5.</td>
<td>It is the right of the master of a ship to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board, or, for the purpose of giving assistance to other ships or persons in distress at sea, on condition that compensatory rest is provided on the conclusion of the situation.</td>
</tr>
<tr>
<td>6.</td>
<td>Seafarers who are engaged as watchkeeping officers or as ratings forming part of a watch whose duties involve designated safety, prevention of pollution, or security duties may be exempted in part from the requirements of rest in Standard A2.3 provided that their rest hours conform to those set out in Chapter VIII of the STCW Convention, as amended.</td>
</tr>
</tbody>
</table>

7. Manning levels for the ship (Regulation 2.7)
Shipping (Maritime Labour Convention) Regulations, 2017, Reg 6, Para 11

<p>| | |</p>
<table>
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<tbody>
<tr>
<td>1.</td>
<td>There shall be a sufficient number of seafarers on-board in accordance with the Minimum Safe Manning Document issued by the Competent Authority.</td>
</tr>
</tbody>
</table>
8. **Accommodation (Regulation 3.1)**

   **Shipping (Maritime Labour Convention) Regulations, 2017, Reg 6, Para 12**

   1. Accommodation of new ships shall meet the provisions set out in Standard 3.1 Paragraphs 6 to 17 of the Convention and Part B3.1 of the Convention.
   
   2. Variations may be allowed in the interests of seafarers having differing and distinctive religious and social practices.
   
   3. Weekly inspections shall be carried out by or under the authority of the master in order to ensure that seafarers' accommodation facilities are clean, decently habitable and maintained in a good state of repair. The results of such inspections shall be recorded in the ship's deck log book.
   
   4. Existing ship (whose keel laying date is before 20th August 2013) shall maintain a decent accommodation for seafarers working or living on-board, or both, consistent with promoting the seafarers' health and well-being. Any alteration other than substantial alteration of accommodation of existing ships shall be carried out in accordance with ILO Conventions C92 and C118. Any substantial alteration of accommodation of existing ships shall be carried out in accordance with the Convention.

   An attending Inspector should complete checklist for accommodation of existing ships on occasion of an initial inspection. The documentation should be retained on-board as long as the ship remains registered with Saint Vincent and the Grenadines.

9. **On-board recreational facilities (Regulation 3.1)**

   **Shipping (Maritime Labour Convention) Regulations, 2017, Reg 6, Para 12**

   1. Recreational facilities must be provided and shall meet the provisions set out in Standard 3.1 Paragraphs 6 to 17 of the Convention and Part B3.1.11 of the Convention.
   
   2. Existing ship shall provide and maintain a decent recreational facilities for seafarers working or living on-board, or both, consistent with promoting the seafarers' health and well-being. Any alteration other than substantial alteration of recreational facilities of existing ships shall be carried out in accordance with ILO Conventions C92 and C118. Any substantial alteration of recreational facilities of existing ships shall be carried out in accordance with the Convention.

10. **Food and catering (Regulation 3.2)**

    **Shipping (Maritime Labour Convention) Regulations, 2017, Reg 6, Para 13**

    1. Food and drinking water of appropriate quality, nutritional value and quantity that adequately covers the requirements of the ship and takes into account differing cultural and religious backgrounds shall be provided at no charge to seafarers.
   
    2. If operating with a prescribed manning of 10 or more there shall carry a qualified ship's cook on-board.
   
    4. A Cook is considered qualified either if:

        1. He/She is in possession of the certificate issued by an organization, approved or recognized by the Competent Authority or, other State party to the Convention or the Certification of Ship's Cooks Convention, 1970 (No.99);
        2. He/She shall have served at sea for 3 months as second cook or assistant cook or 5 years in the catering department as steward. In both cases he/she shall have received training in handling foods, storage of foods on-board ships and hygiene in the galley, food preparation areas; or
        3. He/She possesses approved qualifications in cookery valid in a commercial cooking establishment.

    4. If operating with a prescribed manning of less than 10, a fully qualified cook is not required, provided that the person processing food is to be trained and instructed in areas including food and personal hygiene and handling and storage of food. The training should be documented.
   
    5. If the cook is temporarily not available through exceptional circumstances or has had to leave the ship, the Competent Authority may issue a dispensation for up to one (1) month or until the next port where the cook can be replaced provided the person taking over the role has received instruction or training in handling food, storage of food, and hygiene.
   
    6. Weekly inspections are to be carried out with respect to supplies of food and drinking water, spaces and equipment used for the storage and handling of food and drinking water, galley and other equipment for the preparation and service of meals. Inspections and any deficiencies identified are to be recorded and deficiencies rectified promptly. Records of inspections are to be available for three (3) years.
11. Health and safety and accident prevention (Regulation 4.3)
Shipping (Maritime Labour Convention) Regulations, 2017, Reg.6, Para.16 and MLC 2001

.1 The shipowner shall ensure, so far as practicable, the health and safety of seafarers, that is to say:

.1.1 provide and maintain plant, machinery and equipment and systems of work that are safe and without risk to health;
.1.2 make arrangements for ensuring safety and absence of risk to health in connection with the use, handling, stowage and transport of articles and substances;
.1.3 provide the seafarers with information, instruction, training and supervision as is necessary to ensure the health and safety on-board; and,
.1.4 maintain all workplaces in a safe and risk free condition, and provide and maintain an environment on-board that is safe and without risk to health.

.2 The shipowner shall prepare and keep up to date, a written statement of his general policy with respect to health and safety on-board and the arrangements for carrying out the policy. Standards and practices are those set out in the ILO Code of Practice entitled Accident Prevention on-board Ship at Sea and in Port, 1996 or other guidance from the Competent Authority. A copy of the said Code is to be carried on-board and shall be accessible to seafarers. If there are five (5) or more seafarers on-board a Safety and Health Committee shall be established which shall operate as set out in the Code.

.3 All accidents, injuries and diseases occurring on-board are to be reported to the Competent Authority in accordance with requirements set by the Competent Authority.

.4 The shipowner may not levy a charge for anything done in compliance with this section.

12. On-board medical care (Regulation 4.1)

.1 Seafarers shall have the right to visit a qualified medical doctor or dentist without delay in port of call, where practicable at no cost to them.

.2 Master and relevant on-shore and on-board medical personnel shall use a standard medical report form as indicated by the Competent Authority.

.3 Paragraph 4 of Standard A4.1 of the Convention shall apply and Guidance on Medical Care On-board Ship provided by the Competent Authority from time to time regarding medical stores and medical training are mandatory.

13. On-board complaint procedures (Regulation 5.1.5)
Shipping (Maritime Labour Convention) Regulations, 2017, Reg.6, Para.19

.1 The shipowner shall provide complaints procedure which is available to all seafarers on-board designed to resolve complaints at the lowest possible level but which does not prevent a seafarer from making a complaint directly to the Master, the shipowner or his representative ashore, the Competent Authority’s point of contact ashore or competent authority in the seafarer’s country of residence if the seafarer considers it necessary.

.2 The complaint seafarer shall submit his/her complaint in writing within seven (7) days of the occurrence, or according to the circumstances, following the below hierarchy:

1. Supervisor Officer
2. Head of Department
3. Master

.3 Each of the indicated ranks has a further seven (7) days to solve the complaint.

.4 If the master is unable to resolve the complaint, the seafarer shall have 10 days to bring it through the master to the shipowner, or if the complaint may be to the prejudice of the master, then directly to the shipowner.

.5 The shipowner and the seafarer concerned shall have a period of 39 days there from to resolve the matter.

.6 If after thirty (30) days, the complaint has not been solved, then either party shall have a 30 days to bring the matter to the Competent Authority through its point of contact.

.7 As a substantial equivalent the Competent Authority accepts that the identity of a position on-board can be substituted for the name of a person.
14. **Payment of wages (Regulation 2.2)**

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</thead>
<tbody>
<tr>
<td>.1</td>
<td>Payment of wages is to be at intervals not greater than one month (36 days).</td>
</tr>
<tr>
<td>.2</td>
<td>Specific definitions regarding wages are those in the Guidelines B.2.2.1 and B.2.2.2 of the Convention.</td>
</tr>
<tr>
<td>.3</td>
<td>Each seafarer is to receive a monthly statement of wages specifying wages, additional payments, rate of exchange or where payment is made in a currency different from that in the seafarer's employment agreements.</td>
</tr>
<tr>
<td>.4</td>
<td>Seafarers are to have means to transmit all or part of their earnings to beneficiaries.</td>
</tr>
<tr>
<td>.5</td>
<td>Any charge for the service under paragraph 4 above shall be reasonable in amount, and the rate of currency exchange, unless otherwise provided, shall be at the prevailing market rate or the official published rate and not unfavourable to the seafarer and shall comply with any other relevant requirements that may be established by law.</td>
</tr>
<tr>
<td>.6</td>
<td>The requirements of Guidelines B.2.2.1. Paragraphs 1, 2, 3 and 4 of the Convention shall apply unless overwritten by a Collective Bargain Agreement.</td>
</tr>
<tr>
<td>.7</td>
<td>Normal hours for calculating basic pay shall be 48 hours per week and overtime shall be at not less than 2.25 times basic pay rate.</td>
</tr>
</tbody>
</table>

15. **Financial Security for Repatriation (Regulation 2.5)**

<p>| | |</p>
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</thead>
<tbody>
<tr>
<td>.1</td>
<td>The shipowner shall ensure that seafarers are covered by a financial security system for repatriation even in the event of abandonment. It should cover the following:</td>
</tr>
<tr>
<td>.2</td>
<td>Outstanding wages and other entitlements due from the shipowner to the seafarer in accordance with their seafarers' employment agreement and Collective Bargain Agreement, limited to four (4) months of any such outstanding wages and four (4) months of any such outstanding entitlements;</td>
</tr>
<tr>
<td>.3</td>
<td>All expenses reasonably incurred by the seafarer, including the cost of repatriation which shall cover travel by appropriate and expeditious means; and</td>
</tr>
<tr>
<td>.4</td>
<td>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.</td>
</tr>
<tr>
<td>.5</td>
<td>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. If the shipowner 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.</td>
</tr>
</tbody>
</table>

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

<p>| | |</p>
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</thead>
<tbody>
<tr>
<td>.1</td>
<td>The shipowner shall ensure that seafarers are covered by a financial security system 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 Collective Bargain Agreement.</td>
</tr>
<tr>
<td>.2</td>
<td>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. 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.</td>
</tr>
</tbody>
</table>

---

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, and provided under Article VI, Paragraphs 3 and 4, of the Convention, except where stated above, are noted (insert description if applicable):


No equivalencies have 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 exemptions have been granted.

Name: ______________________
Title: ______________________
Signature: ______________________
Place: ______________________
Date: ______________________

(Seal or stamp of the authority, as appropriate)
APPENDIX 5 – Model of on-board Complaint Procedures

ST. VINCENT AND THE GRENADINES
MARITIME ADMINISTRATION

MODEL OF ON-BOARD COMPLAINT HANDLING PROCEDURES
(in accordance with Regulation 5.1.5 of the Maritime Labour Convention, 2006)

<table>
<thead>
<tr>
<th>Name of Ship</th>
<th>IMO Number</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

CONTACT INFORMATION

1. Person(s) (name(s) OR rank(s)) on board the ship authorized to provide seafarers with confidential and impartial advice on a complaint, and otherwise assist in following the on-board complaint procedures:

   1):
   2):

2. Contact information of the person or persons ashore designated by the shipowner for handling on-board complaints:

   Name:
   Telephone number(s):
   Fax number:
   Email address:

3. Flag (Competent Authority/Maritime Administration) contact point:

<table>
<thead>
<tr>
<th>The Registrar of Seafarers, St. Vincent and The Grenadines Maritime Administration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing address: c/o Commissioner for Maritime Affairs 8, Av de Frontenex 1207 Geneva Switzerland</td>
</tr>
<tr>
<td>Cruise Ship Terminal, Upper Bay Street, Kingstown St. Vincent and The Grenadines</td>
</tr>
<tr>
<td>Tel: +41 (0) 22 707 63 00</td>
</tr>
<tr>
<td>Fax: +41 (0) 22 707 63 49</td>
</tr>
<tr>
<td>Email: <a href="mailto:technical@svq-marad.com">technical@svq-marad.com</a></td>
</tr>
</tbody>
</table>
4. Competent Authority in the seafarers' country of residence:

Name:
Telephone number:
Fax number
Email address: ..................................................

PROCEDURE

5. The procedure for handling on-board complaints is outlined below.

5.1 The complainant seafarer should briefly describe his/her complaint.

5.2 The complainant seafarer should submit his/her complaint in writing within seven (7) days of the occurrence, or according to the circumstances, following the hierarchy below:
   a) Superior Officer
   b) Head of Department
   c) Master

5.3 Each of the indicated ranks has a further seven (7) days to solve the complaint.

5.4 If the Master is unable to solve the complaint, the seafarer will have ten (10) days to bring it through the Master to the shipowner, or if the complaint is to the prejudice of the Master, then directly to the shipowner or the shipowner's designated representative ashore.

5.5 The shipowner and the seafarer concerned will have a period of thirty (30) days to solve the matter.

5.6 If after thirty (30) days, the complaint has not been solved, then either party (shipowner or seafarer) will have a further thirty (30) days to bring the matter to the Administration's point of contact (the Registrar of Seafarers).

5.7 NOTE THAT:

5.7.1 The complainant seafarer will not be victimized. (Victimizing a seafarer is an offence under the Laws of St Vincent and The Grenadines.)

5.7.2 Complainant seafarers have the right to be accompanied and to be represented by another seafarer of their choice on board the ship.

5.7.3 Complaints will be sought to be solved at the lowest level possible; and only when the matter cannot be solved to the satisfaction of both parties, will it be elevated to the next level.

5.7.4 A Complainant seafarer has the right to complain directly to the Master, the shipowner or his representative ashore, the Administration point of contact – (The Registrar of Seafarers) or to the competent authority in the seafarer's country of residence, where the seafarer considers it necessary.

5.7.5 If the complainant seafarer refers the complaint to the Master, the Master will handle the complaint personally and may seek the assistance of the person designated by the shipowner to handle complaints.

5.7.6 All complaints and decisions will be recorded and a copy provided to the complainant seafarer.