

Subject:	Transfer of flag
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1. Objective

The main purpose of this circular is to give additional guidance in regard to the issuing of statutory certificates to ships when transferring flag to Portugal and registering in the International Shipping Register of Madeira – MAR.

2. Statutory surveys

In accordance with relevant international law and regulations, as well as national legislation, ships wishing to register under Portuguese flag shall be subject to surveys before they are allowed to register and issued with statutory certificates.

The Portuguese administration gives, as a principle, due recognition to initial and subsequent surveys carried out by, or on behalf of, the former Administration. Therefore, the scope of the surveys required at the transfer of flag may be the ones specified bellow.

However, factors such as, the age of the ship, the company's and/or the ship's PSC inspections performance history, may be taken in consideration in determining different scopes for the surveys required.

3. Scope of surveys

Prior to issuing statutory certificates on behalf of the Portuguese administration the following surveys should be completed successfully.

3.1 Within the three months time frame

In case the change of flag is taking place within the three months time frame of the validity or anniversary dates of the statutory certificates, then the due renewal, periodical, intermediate or annual surveys, as applicable, are required to be carried out.

3.2 Out of the three months time frame

In case the change of flag is taking place out of the three months time frame of the validity or anniversary dates of the statutory certificates, then additional surveys of the scope of annual surveys should be carried out.

3.3 Safety equipment survey

Notwithstanding the above, if the losing flag is a non-EU flag and/or if there is a simultaneous change of the company of the ship, then the scope of the safety equipment survey should correspond to the one of a renewal survey and to include the verification of compliance with the Directive 96/98/EC (MED) requirements as applicable.

4. ISM certification

Prior to issuing statutory ISM certificates on behalf of the Portuguese administration, the verifications indicated below should be carried out.

4.1 DOC

The Portuguese administration will accept the ship's company Certification of Conformity (DOC) issued by the losing Administration or, on its behalf, by a RO with whom Portugal has established an Agreement for performing statutory tasks.

In this case, ROs may issue an Interim DOC on behalf of the Portuguese administration and the incorporation of specific national instructions/requirements will be confirmed at the next annual audit, when a DOC on behalf of the Portuguese administration will be issued with the validity of the previous one.

In the case the DOC was not issued by the parties referred above, an audit of the scope of an initial will be carried out and a new DOC will be issued on behalf of the Portuguese administration. If necessary, this new DOC may be an interim DOC under the circumstances and in compliance with the relevant requirements established in the ISM Code.

4.2 SMC

If the ship's Safety Management Certificate (SMC) is issued by the losing Administration or, on its behalf, by a RO with whom Portugal has established an Agreement for performing statutory tasks, an additional audit will be carried out to verify seafarers' certificates and endorsements and the incorporation of specific national instructions and requirements (some derived from EU legislation).

In this case, a SMC will be issued on behalf of the Portuguese administration with the expiry date of the previous SMC.

Notwithstanding the above, if the date of the verification falls within the time window to carry out the intermediate or the renewal verifications, then these verifications shall be carried out instead. Obviously, in the later case a SMC valid for 5 years may be issued.

In the case the SMC was not issued by the parties referred above, an audit of the scope of an initial will be carried out and a new SMC will be issued on behalf of the Portuguese administration. If necessary, this new SMC may be an interim SMC under the circumstances established in the ISM Code.

5. ISPS Code

Portuguese flagged ships' security plans shall comply with national requirements in addition to the ISPS mandatory requirements.

5.1 SSP national requirements

- a) The SSP shall address as mandatory the requirements of the Part B of the Code listed in the Article 3, paragraph 5 of the EC Regulation 725/2004;
- b) Records required by Section 10 of the Code shall be kept and available for inspection for a period of 3 years;
- c) The ship's security assessment shall be reviewed every 5 years or in the following circumstances:
 - i. Whenever the ship have been be involved in a serious security incident;
 - ii. Whenever a major non-conformity related with the implementation of the ISPS Code requirements is identified on board;
 - iii. When the circumstances under which the security assessment was carried out have significantly changed.

5.2 Need for re-approval

The SSP will need to be re-approved (relevant parts) when any of the following is altered:

- a) Security incidents notification procedures;
- b) Security equipment mentioned in the plan;
- c) Provisions related with the ISPS Code requirements in section 9.4, paragraphs 1 to 6, 17 and 18.

5.3 Minimum scope of verifications and issue of ISSC

- a) In case the SSP has already been approved
 - i. Additional verification to confirm implementation of changes. If successful, an ISSC can be issued on behalf of the Portuguese administration with the same expiry date as the previous certificate issued by, or on behalf of, the losing administration.
- b) In case the SSP has not yet been approved
 - i. Interim verification to issue an Interim ISSC on behalf of the Portuguese administration. Once the SSP has been approved a) above applies.
- c) In alternative to the additional verification referred to above, the company may request a verification of the scope of a renewal. In that case the ISSC to be issued will be valid for 5 years.
- d) Notwithstanding the above in a), if the date of the verification falls within the time window to carry out the intermediate or the renewal verifications, then these verifications shall be carried out instead.

6. MLC

At this moment, Portugal has not yet ratified the Maritime Labor Convention, 2006. However, it is foreseen that it will happen within the first semester of 2014.

In the meantime, concerning this convention requirements, Portuguese flagged ships are given the option between:

- a voluntary compliance based on the convention minimum requirements (without a DMLC/Part I); and
- a compliance based on an interim DMLC/ Part I addressing the already existing relevant MLC requirements on the Portuguese legislation presently in force. In this case, a Statement/Certificate of Compliance would be issued by the RO on behalf of the Portuguese administration.

In any case, owners must be aware that following the ratification of the convention by Portugal and the respective transposing into national legislation, DMLC/Part I will be issued to Portuguese flagged ships and, consequently, the ships' DMLC/Part II will have to be reviewed to assure compliance with possible new/amended relevant national requirements.

7. Exemptions, waivers and equivalents

In general, the Portuguese administration grants exemptions, waivers and equivalents as allowed by the international conventions and EU regulations.

To apply for any of the above please consult the relevant circular, published by the Administration, and the RO for details on the respective procedures.