



Direção-Geral de Recursos Naturais,
Segurança e Serviços Marítimos

Direção de Serviços de Administração Marítima

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Circular N.º 32
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Subject:	Transfer of Flag
To:	Shipowners, Companies, Operators, Recognized Organizations and Masters of Portuguese flagged vessels

1. OBJECTIVE

The main objective of this circular is to give some additional guidance in regard to the issuance of statutory certificates to ships transferring to the Portuguese Flag 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.

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 or the company's and/or the ship's PSC inspections performance history, may be taken in due 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.

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3.1 Within the three months' time frame

If the change of flag takes 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

If the change of flag takes 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's ISM, then the scope of the safety equipment survey should correspond to the one of a renewal survey and include the verification of compliance with the requirements of Directive 96/98/EC (MED) as applicable.

4. ISM CERTIFICATION IN ACCORDANCE WITH REGULATION (EC) No 336/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, AND THE ISM CODE

Prior to the issuance of statutory ISM certificates on behalf of the Portuguese Administration, the bellow indicated verifications should be carried out.

4.1 DOC

The Portuguese Administration accepts the ship's company Document of Compliance (DOC) issued by the losing Administration or on its behalf by a Recognized Organization (RO), being that RO one of those that have signed an agreement with the Portuguese Maritime Administration for performing statutory tasks.

In this case, ROs may issue a DOC on behalf of the Portuguese Administration with the same expiry date as the previous Flags' DOC and the availability of specific national

requirements/instructions (some derived from EU legislation) and their incorporation into the management system will be confirmed at the next annual audit.

In case the DOC was not issued by the above referred parties, an audit with the scope of an initial ISM audit 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 one and in compliance with the relevant requirements established both in the ISM Code and in Regulation (EC) No 336/2006 of the European Parliament and of the Council.

4.2 SMC

If the ship's Safety Management Certificate (SMC) is issued by the losing Administration or on its behalf by a RO that have signed an agreement with the Portuguese Maritime Administration for performing statutory tasks, a verification on board will be carried out to verify that:

- a) A valid DOC for the Portuguese Flag sighted;
- b) Valid statutory certificates, safe manning certificate, Flag endorsements;
- c) Seafarers' and crew certificates and endorsements in compliance with Flag requirements;
- d) 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 certificate.

Notwithstanding the above, if the date of the audit falls within the time window due to carry out either the intermediate or the renewal audit, then these audits shall be carried out instead, and either a SMC with the expiry date of the previous certificate or a 5 years SMC may be issued on behalf of the Portuguese Administration, as applicable.

Where the SMC was not issued by the above referred parties, an audit with the scope of an initial will be carried out and a new SMC will be issued on behalf of the Portuguese Administration. If needed, this new SMC may be an interim one under the circumstances established both in the ISM Code and in Regulation (EC) No 336/2006 of the European Parliament and of the Council.

Under no circumstances a full term SMC will be issued if only an interim DOC has been issued to the company.

5. ISPS CERTIFICATION IN ACCORDANCE WITH REGULATION (EC) No 725/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AND WITH THE ISPS CODE

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

5.1 SSP national requirements

5.1.1 The SSP shall address as mandatory the following requirements of the Part B of the Code listed in the Article 3, paragraph 5 of the EC Regulation No. 725/2004:

- i. 1.12 (revision of ship security plans),;
- ii. 4.1 (protection of the confidentiality of security plans and assessments)
- iii. 4.4 (recognised security organisations)
- iv. 4.5 (minimum competencies of recognised security organisations),
- v. 4.8 (setting the security level
- vi. 4.18 (identification documents)
- vii. 4.24 (ships' application of the security measures recommended by the State in whose territorial waters they are sailing)
- viii. 4.28 (manning level)
- ix. 4.41 (communication of information when entry into port is denied or the ship is expelled from port)
- x. 6.1 (company's obligation to provide the master with information on the ship's operators)
- xi. 8.3 to 8.10 (minimum standards for the ship security assessment)
- xii. 9.2 (minimum standards for the ship security plan)
- xiii. 9.4 (independence of recognised security organisations)
- xiv. 13.6 and 13.7 (frequency of security drills and exercises for ships' crews and for company and ship security officers)

5.1.2 Records required by Section 10 of the Code shall be kept and available for inspection for a period of 3 years;

5.1.3 The following changes to the SSP have to be approved prior to their inclusion on the approved SSP and implementation on board:

- i. Security incidents notification procedures;
- ii. Security equipment mentioned in the plan;
- iii. Provisions related with the ISPS Code requirements in section 9.4, paragraphs 1 to 6, 12, 17 and 18;
- iv. Changes introduced in the SSP or in any of the security equipment mentioned here above have to be documented in a way the approval can be clearly identified; such documentation shall be kept on board together with the full term or interim ISSC.

5.2 SSA national requirements

The ship's security assessment shall be reviewed every 5 years or in the following circumstances:

- i. Whenever the ship has been 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 changed significantly.

5.3 Minimum scope of verifications and issuance of ISSC

5.3.1 In case the SSP has already been approved - an 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.

5.3.2 In case the SSP has not yet been approved - an Interim verification to issue an Interim ISSC on behalf of the Portuguese Administration. Once the SSP has been approved, 5.3.1 above applies.

5.3.2 Alternatively to the additional verification referred above in 5.3.1, the company may request an audit of the scope of a renewal. In such a case the ISSC to be issued will be valid for 5 years.

5.3.3 Notwithstanding the above mentioned in 5.3.1, if the date of the audit falls within the time window to carry out either the intermediate or the renewal verifications, then these verifications shall be carried out instead.

6. MLC

At this moment, Portugal is not yet a Party to the Maritime Labor Convention, 2006.

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); or

B - compliance with the interim procedure included in Circular N.º 12 (http://www.dgrm.min-agricultura.pt/xportal/xmain?xpid=dgrm&xpgid=genericPageV2&conteudoDetalhe_v2=3810274).

However, owners must be aware that following the ratification of the MLC Convention by Portugal, 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. For additional information please consult Part E of Circular N.º 12.

7. EXEMPTIONS, WAIVERS AND EQUIVALENTS

The Portuguese Administration grants, in general, exemptions, waivers and equivalents as allowed by the international conventions and EU regulations.

To apply for any of the above please consult the relevant circulars, published by the Administration in DGRM website in <http://www.dgrm.min->

agricultura.pt/xportal/xmain?xpid=dgrm&xpgid=genericPageV2&conteudoDetalhe_v2=3810274

and the RO for details on the procedures.

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The Director of the Maritime Administration Services Directorate

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