

 <p>LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG Ministère de l'Économie</p> <p>Commissariat aux affaires maritimes</p>	FSI Guide	<p>Date de rédaction : 11/07/2024</p> <p>GUI-NTEC-01, rév n° 01</p>
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## GUIDE FOR FLAG STATE INSPECTIONS ON BEHALF OF LUXEMBOURG

This Guide is for CAM nautical Inspectors conducting Luxembourg Flag State Inspections and for vessel Owners. Inspectors must follow the guidelines and procedures detailed herein as well as the "FSI Checklist Completion Guide" and IMO Resolution A.1185(33) - Procedures for Port State Control, 2023.

### SECTION 1 – GENERAL

#### 1. Definitions

For the purpose of this Guide:

**"Act"** means the Act of 9 November 1990 establishing a Luxembourg public maritime registry (the "1990 Maritime Act").

**"Company"** means the owner of the ship or any other organization or person, such as the manager, agent or bareboat charterer, who assumes responsibility for the vessel operation from the owner or other organization or person, including legal duties and obligations imposed on shipowners;

**"CAM"** means the Commissariat aux affaires maritimes;

**"Commissioner"** means the Commissioner for maritime affairs as defined in article 2 of the Luxembourg Maritime Act 1990 ("Act");

**"FSI"** means Flag State Inspection;

**"IMO"** means the International Maritime Organization;

**"Inspector"** means any person appointed as Inspector of Ships under the provisions of article 68 of the Act, authorized to carry out inspections of Luxembourg flagged ships to which the present Instructions apply and vested with the powers enumerated in section 3 of these Instructions;

**"Local authorities"** mean the competent authorities in each State authorized to carry out Port State Control functions and activities set out in:

- (a) Regulation I/19 of SOLAS 74 as amended;
- (b) Article 21 of LOADLINE 66,
- (c) Article 5 of MARPOL 73/78 as amended;
- (d) Article X of STCW 78 as amended;
- (e) Article 12 of TONNAGE 69.

 <p>LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG Ministère de l'Économie</p> <p>Commissariat aux affaires maritimes</p>	FSI Guide	<p>Date de rédaction : 11/07/2024</p> <p>GUI-NTEC-01, rév n° 01</p>
---	-----------	---

**"Luxembourg flagged ship" or "Luxembourg vessel"** means a ship defined in article 4 of the Act. It includes any ship which, pursuant to article 5 of the Act, is registered in the public shipping register of ships flying the Luxembourg flag;

**"Owner"** means the registered owner(s) of a ship and includes any Luxembourg or a corporation who has bareboat chartered a ship under the provisions of article 11 of the Act;

**"RO/RSO"** means Recognized Organization/Recognized Security Organization: one of the nine following classification society authorized by CAM: American Bureau of Shipping, Bureau Veritas, China Classification Society (CCS), Croatian Register of Shipping (CRS), DNV (ex-DNV GL), Korean Register, Lloyd's Register, Nippon Kaiji Kyokai (NKK), and RINA.

## 2. Objective

The FSI Program ("Program") aims to enhance safety, security, labour and environmental standards of the Luxembourg fleet through regular vessel inspections conducted by a network of Inspectors.

This Program also aims to maintain the Luxembourg flag's position on the different White Lists of the Port State Control MoUs by assisting the vessel owners to avoid PSC deficiencies. Both purposes are part of the continuous improvement requirement of the ISM Code and III Code.

The Program is a complementary measure to the activities of Recognized Organizations, which retain responsibility for full-scale surveys and issuance of statutory certificates.

The conduct of the Program is under the exclusive control of the CAM

## 3. Evaluation of the inspection report

CAM will review each FSI report to evaluate the performance of vessel, Company and ROs/RSOs against a set of evaluation criteria.

CAM will use the evaluation result to assign a risk factor to the vessel, Company, RO/RSO. This risk factor will help determine flag State inspection intervals and RO/RSO and Company audit frequency.

CAM evaluates the vessel and Company through holistic analysis of the course and outcome of the inspection and the follow up by the Company. Systematic approach, analysis of root causes and gravity of deviations as well as the quality awareness and motivation for continuous improvement are important factors for the final evaluation of vessel and/or Company. Unlike the PSC, CAM does not limit its performance evaluation solely on the number of deficiencies and observations.

Inspection quality and Inspector performance will also be evaluated according to criteria included in CAM Inspector Evaluation Instructions (I-NTEC-01), such as report completeness, response accuracy,

 <p>LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG Ministère de l'Économie</p> <p>Commissariat aux affaires maritimes</p>	FSI Guide	<p>Date de rédaction : 11/07/2024</p> <p>GUI-NTEC-01, rév n° 01</p>
---	-----------	---

comment quality, inspection thoroughness, adherence to requirements of CAM FSI Guide, communication.

#### 4. Contact details

Luxembourg Maritime Administration (CAM)

- Email: [cam@cam.etat.lu](mailto:cam@cam.etat.lu)
- Telephone: +352 247 84453 (tel 24/7: +352 621 350 490 (main) or +352 621 501 550 (back up)).

## SECTION 2 – INSPECTIONS

### 1. General

Luxembourg Flag State Inspectors should adhere to the guidance provided in IMO Resolution A.1185(33)- Procedures for Port State Control, 2023. For the purposes of the Program, mentions therein of “Port State” should be understood as “Flag State”. Any procedures therein related to foreign ships should not be taken into account for the purpose of the Program.

### 2. Scope

All ships flying the Luxembourg Flag are subject to a regular FSI. It consists of a control of the certificates and documents in combination with checks of the general condition of the ships and the seafarers' working and living conditions.

The FSI does not apply to ships under bareboat charter out to a foreign registry.

Any notice or report issued under the Program is only for the purpose of informing the ship's Master and its Owners, as well as port and flag State authorities, that an inspection under the Program has taken place. FSIs do not confirm vessel seaworthiness or lead to the issuance of a seaworthiness certificate.

### 3. Inspection frequency

In principle, FSIs are performed on a yearly basis. CAM may however decide to arrange FSIs more frequently, based on the vessel performance, incidents, sailing area etc. A good record of both the vessel and the Company will be considered by CAM, allowing well performing vessels to benefit from extended FSI intervals.

 <p>LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG Ministère de l'Économie</p> <p>Commissariat aux affaires maritimes</p>	FSI Guide	<p>Date de rédaction : 11/07/2024</p> <p>GUI-NTEC-01, rév n° 01</p>
---	-----------	---

#### 4. Conduct of inspections

Upon the assignment by CAM, Inspectors are duly authorized to board any Luxembourg flagged ship covered by the Program.

#### 5. FSI Scheduling

a) The Inspector receives a FSI request from CAM detailing the following information as far as possible:

- Vessel name and IMO number
- Port, ETA and ETD
- Local agent contact information

An Inspector may also contact CAM to determine whether a Luxembourg flagged ship approaching a port in his coverage area needs to be inspected.

- b) The Inspector emails CAM at [cam@cam.etat.lu](mailto:cam@cam.etat.lu) providing a breakdown of any additional travel expenses that may be incurred.
- c) CAM provides the relevant inspection forms and guidance documents to the Inspector. Additional information such as the outcome of previous FSIs, survey reports, etc. may also be included.
- d) CAM notifies the Company about the planned inspection.
- e) The Inspector contacts the local agent as soon as possible to schedule a mutually convenient inspection appointment. CAM should be copied on all correspondence between the Inspector and the local agent ([cam@cam.etat.lu](mailto:cam@cam.etat.lu)). **The inspection should be done, as far as possible, with the vessel fully operational and with the full crew on board.**
- f) Inspectors should use their discretion to ensure the appointment allows adequate time to complete the required work and avoid any undue delay or inconvenience to the Owner. It is not recommended to initiate an inspection less than 12 hours prior to the ship's estimated time of departure.
- g) Ideally, Inspectors should board a ship for inspection immediately upon arrival, unless the ship will be in port for an extended period. The Inspector must present his identity document to the ship's Master upon boarding.

#### 6. Reporting

An inspection is not considered complete until reported. Upon completion of the inspection tasks on board a copy of the report (in PDF or hard copy) is issued to the Master for retention on board. The report and any issues identified therein shall be reviewed together by the Inspector and the Master. The last page of the

 <p>LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG Ministère de l'Économie</p> <p>Commissariat aux affaires maritimes</p>	FSI Guide	<p>Date de rédaction : 11/07/2024</p> <p>GUI-NTEC-01, rév n° 01</p>
---	-----------	---

report shall be signed by both, the Inspector and the Master. In case a full report is not yet available, a summary of deficiencies is to be issued to the Master on the last page of the inspection checklist.

Items noted by the Inspector are to be marked as deficiencies or observations. It is important that the Inspector notes a reference to legal basis for all identified deficiencies. In case of observations, a reference to legal basis should be noted as far as possible.

A deficiency is an infringement of international or local codes, rules and regulations.

An observation does not necessarily indicate a direct infringement or violation of a specific requirement. However, it may require some form of investigation, monitoring, or action by the vessel's crew or the flag state administration. Observations are typically less severe than deficiencies, but are still important for the ongoing maintenance, safety, and compliance of the vessel. They allow the Inspector to document situations or conditions that may warrant further attention, even if they do not currently rise to the level of a regulatory breach.

Both are to be followed up and rectified as part of the continuous improvement required by the ISM code. The statement of the crew and the Company, consisting of root cause analysis, corrective action, preventive action and possible remarks is an important part of the inspection follow up.

All inspection reports must be supplemented by pictures of the main areas of ship as well as detected deficiencies and observations.

**The report, pictures, crew list, invoice and any relevant documents shall be sent to [cam@cam.etat.lu](mailto:cam@cam.etat.lu) within the next 3 business days as far as possible.** Timely report submission will ensure payment for the assignment.

Pictures may be sent as .JPG and all remaining supporting documents (crew list, a copy of the page with signatures, etc.) shall be scanned to PDF.

It is recommended that the Inspector makes a third copy of the report for his own records.

Where exceptional circumstances prevent the report from being submitted within the requisite time, the Inspector shall provide CAM with a written statement detailing the reasons for the delay.

Where an inspection is performed in parts and work is suspended for an indefinite period, a partial inspection report should be submitted.

Whenever an inspection is carried out by two or more Inspectors, the name of each Inspector should appear on the report with the primary Inspector's name recorded first.

In case of serious deficiencies, which require the issuance of derogations or which may lead to a detention or suspension of vessel operation, the Inspector shall **immediately notify CAM** of the situation found on

 <p>LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG Ministère de l'Économie</p> <p>Commissariat aux affaires maritimes</p>	FSI Guide	<p>Date de rédaction : 11/07/2024</p> <p>GUI-NTEC-01, rév n° 01</p>
---	-----------	---

board via mail on [cam@cam.etat.lu](mailto:cam@cam.etat.lu) or by phone as provided in Section 1.4. CAM will provide direction on the appropriate course of action. The inspection report must follow as soon as possible.

**The Inspector is not authorized to detain a Luxembourg flagged ship without the Commissioner's prior written consent.**

## 7. Invoicing

For accounting purposes, inspection invoices must be accompanied by relevant travel expense receipts (if applicable). Inspection invoices should mention that the inspection was performed on a Luxembourg-flagged vessel and should include the vessel's name, date of inspection, and a breakdown of travel expenses. The invoice and travel expense receipts shall be sent to [cam@cam.etat.lu](mailto:cam@cam.etat.lu).

The invoice "Bill to" details should be as follows:

Commissariat aux affaires maritimes  
3-5, rue Auguste Lumière  
L-1950 Luxembourg

## SECTION 3 – INSPECTOR SERVICE CONDITIONS

### 1. Conduct and service conditions

The Inspectors should conduct at all times in a professional manner and be familiar with applicable Luxembourg legislation governing the Program as well as relevant CAM instructions issued for their guidance.

### 2. Continuous professional development

The Inspectors shall show commitment to professional learning and self-development and continuously update their knowledge as appropriate to the work they have been authorized to undertake in their role as Luxembourg Flag State Inspectors.

The Inspectors shall always strive to keep abreast with developments in the maritime industry, especially with regards to new international requirements and convention amendments, as well as national legislation.

 <p>LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG Ministère de l'Économie</p> <p>Commissariat aux affaires maritimes</p>	FSI Guide	<p>Date de rédaction : 11/07/2024</p> <p>GUI-NTEC-01, rév n° 01</p>
---	-----------	---

The CAM regularly issues circulars outlining any updates to the Luxembourg flag state requirements and policies concerning ship safety, security, labour standards as well as environmental protection. The circulars are available on the CAM's website and may be consulted by the Inspectors at any time.

Moreover, the CAM keeps the Inspectors updated of any opportunities for professional development, such as upcoming webinars or on-site trainings, workshops and in-house trainings.

### 3. Inspector Designation

When referring to their status, Inspectors should use the designation "Inspector for the Commissariat aux affaires maritimes".

### 4. Inspector powers

A duly appointed Inspector may:

- a) At all reasonable times, board and inspect any ship within the Program scope, including its equipment or any other parts of the vessel as well as any on-board articles or documents carried by the ship relating to applicable statutory instruments;
- b) Verify that all the seafarers serving on board hold appropriate certificates or dispensations;
- c) If the Inspector has clear grounds to believe that the ship is not in compliance with the requirements of SOLAS Chapter XI-2 or part A of the ISPS Code and the only means to verify or rectify the non-compliance is to review the relevant requirements of the Ship Security Plan, limited access to the specific sections of the plan relating to the non-compliance will exceptionally be allowed by the Government Commissioner for Maritime Affairs.

**The Inspector is not authorized to detain a Luxembourg flagged ship without the Commissioner's prior written consent.**

### 5. Excluded Services

None of the following services may be performed on a Luxembourg flagged ship without the CAM's prior consent:

- Condition surveys, other than on or off-hire surveys;
- Surveys of goods or cargoes for any purpose;
- Valuation of ships or machinery or equipment;
- Acting as arbitrators;
- Making affidavits;
- Giving proof of evidence;

 <p>LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG Ministère de l'Économie</p> <p>Commissariat aux affaires maritimes</p>	FSI Guide	<p>Date de rédaction : 11/07/2024</p> <p>GUI-NTEC-01, rév n° 01</p>
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- Making any statement of average in damage cases.

## 6. Inspection preparation

The Owner and Master of any ship to which the present Program applies is obliged to make the necessary arrangements to facilitate the Inspector's access to the Ship and cooperate with the Inspector for the prompt, speedy and safe execution of inspections under this Program.

## 7. Safety at work

While working in connection with the Program, the Inspector has a duty to take reasonable care for the health and safety of himself and other persons who may be affected by his acts or omissions at work and to cooperate with any person acting pursuant to any statutory duty, insofar as it is necessary to enable that duty or requirement to be performed or complied.

Inspectors should adhere to health and safety statutory requirements in the country where the inspection is performed. Upon request, the Inspector should be able to present a risk assessment for the work performed on board. While on board, the Inspector shall wear appropriate PPE, having regard to the type of ship/area and any special port requirements. The inspector should immediately notify the Master of the ship or the person concerned of any health and safety risks and/or hazards. In case of serious risk or hazard, the Inspector should suspend his inspection until necessary corrective steps are taken and he is satisfied that the hazard no longer exists. Cases of serious risk or hazard should be immediately reported to CAM. CAM will provide direction directly to the Inspector on the appropriate course of action.

## 8. Confidentiality and Accuracy

Inspection reports are treated as confidential between the Inspector and CAM. They cannot be shared with any third party without CAM's prior consent. As official documents, Inspection reports may need to be produced in evidence before Courts of Law, Inquiry or Arbitration.

No reference should be made in the report to confidential sources of information, statements of a misleading nature or statements that could be construed as criticism of the ship design, machinery, equipment, workmanship or materials, crew competency or proficiency, or the effectiveness of the ship's management. Similar considerations apply to observations brought to the notice of the Inspectors on the behavior of a ship or its machinery or equipment and to suggestions for improvement of structure or machinery or equipment.

## 9. Document validity and electronic certificates/copies

CAM supports and encourages the use and the acceptance of electronic Statutory certificates issued by RO/RSOs, including printed versions of electronic certificates. The validity of such certificates shall be



 <p>LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG Ministère de l'Économie</p> <p>Commissariat aux affaires maritimes</p>	FSI Guide	<p>Date de rédaction : 11/07/2024</p> <p>GUI-NTEC-01, rév n° 01</p>
---	-----------	---

verified in line with RO/RSOs instructions. For more information is available on CAM Circular 07/2017 at : <https://maritime.public.lu/dam-assets/circulaires/007-Electronic-certificates.pdf> .

Where original certificates issued by CAM have yet to be delivered to the vessel, the Inspector may verify on-board copies on CAM's secure government website. Each vessel has its own secure dedicated page, accessible via a unique QR Code issued to the owner upon registration by scanning the QR Code with a mobile phone.

Where the validity of a presented document is in doubt, the Inspector should contact CAM for assistance. Any falsified documents should be immediately reported to CAM.

## 10. Annexed documents

- FSI Checklist Completion Guide for Inspectors (for Inspectors only),
- Corrective Action Report Completion Guide,
- FSI Checklist for Merchant Ships Above 500 GT and Carrying Up to 12 Passengers,
- FSI Checklist for Commercial Cruise Ships Above 24 Meters Below 500 GT and Carrying Up to 12 Passengers.

Additional information is available on the CAM's website (<https://maritime.public.lu/en/administrative-procedures/circulars.html>).

REDACTEUR	APPROBATION
Date: 11/07/2024	Date: 11/07/2024
Nom : <b>Amalia Smereczynska</b>	Nom : <b>Roland Brück</b>