

PSCircular 97

8 MAY 2020

TEMPORARY GUIDANCE RELATED TO COVID-19 FOR PORT STATE CONTROL AUTHORITIES (REV.2)

Introduction

- 1 MAB has considered and agreed that, noting the global impact of COVID-19, there is need to apply flexibility under these special circumstances. In Paris MoU member States, national measures are implemented which are to a large extent affecting the port State control regime. In view of a common approach in the region, not withstanding any possible national measures, and in view of the continued effects of the COVID-19 crisis, as a general principle the following guidelines would be applied on a case by case basis by the relevant port State Authority.
- 2 This guidance focusses on the effect of the COVID-19 crisis on the Paris MoU in relation to:
 - preventive measure to halt the spread of COVID-19
 - non-compliance with the Relevant Instruments due to COVID-19
- 3 A summary of relevant publications can be found on a dedicated COVID-19 page of the Paris MoU website:
<https://www.parismou.org/publications/covid-19/pmou-covid-19-publications/paris-mou-covid-19-publications/paris-mou-covid-0>

Preventive measure to halt the spread of COVID-19

- 4 PSCOs should be guided by the preventive measures adopted by their Maritime Administrations, including the use of appropriate personal protective equipment in order to protect themselves as well as the ship's crew. MAB has noted that Paris MoU member States have implemented measures to limit the number and/or extent of PSC inspections. As shortages in personnel and staffing may become more common, port States which encounter such difficulties could consider to carry out primarily overriding priority inspections.
- 5 Whether an inspection takes place remains the decision of the port State. A vessel can be considered self-isolating only if there are no ship-shore interfaces.

Ship Certification Issues due to COVID-19

- 6 In relation to the COVID-19 situation, it may occur that a ship cannot fulfill the requirements from the Relevant Instruments or the follow-up on inspection results as would normally be required. As a basic principle the primary responsibility regarding compliance with the Conventions remains with the owner and flag State. However in those case where the owner and flag State have demonstrated to take that

responsibility, but due to the current situation cannot carry out those duties that normally would be required, the Paris MoU should adopt a pragmatic approach and also be flexible as this is a rapidly developing situation.

7 Interval of surveys and audits required by Conventions

In the event that a ship has not complied with the requirements of the surveys, inspections and audits contained in relevant convention requirements (SOLAS Chapter I Regulation 10 etc.), the ship must provide evidence to the port State that the flag State has agreed to an exceptional delay specific to COVID-19. There should also be evidence that the ship has a plan that covers how the ship will be brought back into the regular survey or audit cycle.

8 Duration of statutory certificates

Giving consideration that an exceptional extension of validity of certificates specific to COVID-19 would be inevitable for certain ships, the flag State or RO, acting on behalf of the flag State, may extend the validity of certificates to an appropriate and proportional grace period specific to COVID-19. In such case the ship must provide the evidence to the port State that the flag State Administration has agreed to an exceptional delay specific to COVID-19 and that the ship has a plan that covers when the ship will be scheduled to be subject to the renewal survey and audits.

9 Installation of Ballast Water Management System

In the event that a ship cannot meet the requirements of Regulation B-3 of the Ballast Water Management Convention (ballast water management instead of ballast water exchange) due to delay of dry-docking caused by disruption from COVID-19, the port State should seek confirmation that the flag State has agreed to an exceptional delay specific to COVID-19. There should also be evidence that the ship has a plan that covers how the ship will comply with the requirements of Regulation B-3 of BWM.

10 Where, under par. 7 to 9, the required evidence from the flag State is missing, the ship should be treated in the normal manner as per the Paris MoU procedures. This also applies to any vessel operating beyond any indicated grace period.

11 The pragmatic relaxation of requirements, which may include the acceptance of copies of certificates of which the validity can be verified, should be applied by port States on ships which have not exceeded the requirements by the appropriate and proportional grace period specific to COVID-19, unless it is evident that the COVID-19 pandemic is used as an excuse to breach the Convention requirements.

Personnel issues due to COVID-19

12 MLC 2006

MAB has considered that there may be a need to apply flexibility under the circumstances on the issue of extending periods of service on board ships. In doing so the port State should request the operator of the ship to confirm that the flag State, the relevant crew members and relevant seafarer organisations (if applicable) have been involved in the process.

Further guidance regarding what the port State should look at in case of non-compliance with MLC due to force majeure related to COVID-19, could be found in ILOs "Information note on maritime labour issues and coronavirus (COVID-19)":
<https://www.parismou.org/system/files/ILO%20Covid.pdf>

13 STCW Certification

MAB has considered cases where seafarers have faced issues with completing refresher courses for the renewal of personal certification. This could be caused by cancelled courses, quarantine or travel bans. In such cases the maritime administration may have extended the validity of such certificates and this should be accepted as a case of force majeure. For foreign certificates if the flag administration

has granted an extension due to force majeure then this should be accepted as similarly extending the endorsement of the flag state of the ship on which the seafarer is serving.

14 Medical Certificates

In cases where it has been difficult for seafarers to extend their medical certificate the flag administration may allow seafarers to remain on-board. PSCO should accept documents produced by flag States which acknowledges seafarers extended stay on board due to force majeure associated with COVID-19.

15 Rectification and follow-up on inspection reports

In relation to the rectification of recorded or outstanding deficiencies, guidance should be taken from PSCC Instruction 50/2017/11 - Guidance on Detention and Action Taken (including eg. AT code 48 - as in the agreed flag State condition) and PSCC43-2010-11 - Flag State exemptions. In case a ship is detained on ISM, but no external audit can be organised, despite best efforts by the company and flag State (which may include temporarily authorization of another RO), the ship may be allowed to proceed to the next port to carry out the external audit. In order to use AT code 48 in combination with ISM deficiency 15150, a ticket with a justification has to be send to thetis@emsa.europa.eu to activate the possibility in THETIS. Consequently, the guidance regarding the use of AT code 48 should then be applied.

Review of the guidance

- 16 This PSCircular will be reviewed, as appropriate, to keep aligned with developments of the COVID-19 virus and future initiatives by relevant stakeholders.

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