

Acuerdo de Viña Del Mar



Email

FOR: Member Maritime Authorities
FROM: Viña del Mar Agreement Secretariat
SUBJECT: "PROVISIONAL GUIDANCE TO FACE THE IMPACT OF COVID-19, WITH REGARD TO IMO CONVENTIONS AND MLC 2006"

DATE: 06 ABR 2020

No. 30/20

The Secretariat of the Viña del Mar Agreement takes this opportunity to convey our regards to your Maritime Authority and addresses you to submit, for your consideration, a draft of a "Provisional Guidance to face the impact of COVID-19" in the framework of the Latin American Agreement on Port State Control of Vessels.

Following the statement, from last March 11, 2020, made by the World Health Organization (WHO), referring to the outbreak of the new coronavirus (COVID-19) as a pandemic, the crisis that international shipping is undergoing and the challenges that the industry faces to meet the regulatory requirements under the relevant IMO conventions and the Maritime Labour Convention 2006 (CTM 2006) are acknowledged.

On this basis, the Latin American Agreement Secretariat, in view of the concerns raised regarding the effects of this pandemic in the region, has been carrying out a constant information exchange to find common guidelines on a regional basis to protect the health and safety of port State control officers and seafarers on board of vessels, while recognising that in these times of global crisis it is essential to maintain supply chains open and trade, transport and maritime services in movement.

Besides, associated difficulties have arisen for ship owners and companies to coordinate inspections and/or audits to ships and, at the same time, seafarers are also experiencing difficulties to attend the required training courses and to revalidate certificates.

Due to the implications of the outbreak of the coronavirus (COVID-19) for shipping, it is necessary that Member Maritime Authorities, in the exercise of port State control jurisdiction, ensure the full and effective implementation of measures for the safety of navigation, maritime protection, safety of persons and property on board and environmental protection, though considering the possibility to allow an exceptional delay in compliance under these special circumstances.

In this regard, the need for flexibility under these special circumstances is being considered, by adopting a pragmatism and practical approach regarding the actions implemented by flag States as a result of the impact of delays in surveys, inspections, audits, extensions in the validity of titles, certificates and endorsements of seafarers, etc, and their acceptance in the

Prefectura Naval Argentina
Avda. Eduardo Madero 235 Piso 4 Of.426
(C.P. C1106 ACC) -C.A.B.A - Argentina

Tel. 54 11 4318-7648 Fax. 54 11 4318-7643
Internet: <http://www.acuerdolatino.int.ar>
E-mail: ciala@prefectura naval.gov.ar



AVM ACUERDO DE
VIÑA DEL MAR
1992

SECRETARIAT OF THE VIÑA DEL MAR AGREEMENT ON PORT STATE CONTROL
OF VESSELS

exercise of the port State control procedures, so as to avoid the adoption of non-coordinated measures that affect the regional port State control regime.

In this context, marked by the global public health emergency, and with a view to provide the member Maritime Authorities with common guidelines to address in a harmonized way the issues concerning international shipping in the region, the Agreement Secretariat submits for its consideration the document called "PROVISIONAL GUIDANCE TO FACE THE EFFECTS OF THE OUTBREAK OF COVID-19, WITH REGARD TO IMO CONVENTIONS AND MLC 2006", which sets out the concerns and courses of action arising from the recent information exchange.

This provisional document will be reviewed and updated based on future initiatives by the IMO/ the ILO or future developments of the pandemic in the region.

Yours sincerely,



Italo D'Amico
REAR ADMIRAL
Deputy Executive Secretary
Latin American Agreement of Viña del Mar


INÉS BERINA ARANDA
OFICIAL PRINCIPAL
TRADUCCIONES



Prefectura Naval Argentina
Avda. Eduardo Madero 235 Piso 4 Of.426
(C.P. C1106 ACC) –C.A.B.A - Argentina

Tel. 54 11 4318-7648 Fax. 54 11 4318-7643
Internet: <http://www.acuerdolatino.int.ar>
E-mail: ciala@prefectura naval.gov.ar



For: Members, Cooperating Members and Observers of the Latin American Agreement on Port State Control of Vessels – Viña del Mar 1992

PROVISIONAL GUIDANCE TO FACE THE EFFECTS OF THE OUTBRAKE OF COVID-19, WITH REGARD TO THE RELEVANT IMO CONVENTIONS AND THE MARITIME LABOUR CONVENTION OF THE ILO

Introduction

In view of the global impact of the outbreak of the new coronavirus (COVID-19) and based on the IMO Circular Notes regarding the effects of the pandemic on international shipping, the Member Authorities of the Latin American Agreement on Port State Control of Vessels agreed to address the potential delay of surveys, inspections and audits and the extension of the validity of titles, including medical certificates and endorsements of seafarers and personnel on board of fishing vessels, and acknowledged that it may be necessary to allow some degree of flexibility under certain circumstances. As a general principle, the member Maritime Authorities of the Viña del Mar Agreement will implement the following guidance on a case-by-case basis.

General aspects

As the visit on board by port State control officers (PSCOs) in compliance with their duties implies a high level of exposure and it is essential to protect their health and physical integrity while health risks arising from the pandemic COVID-19 persist and pursuant to the basic security measures circulated in this regard by the World Health Organization (WHO), it is recommended that the port State control activities focus on those vessels that, according to the database of the Latin American Agreement Information Centre (CIALA), present a high risk factor, though recognising the effect that this may have on one of the pillars that the Agreement upholds: the commitment undertaken by the member Maritime Authorities to comply with a minimum number of inspections.

Prior to boarding the ship, the port State control officers (PSCOs) will confirm obtain confirmation from the master or the ship legal representative in the port of arrival that are no persons infected with COVID-19 or suspected of having contracted the virus. It will be considered that ships arriving from areas deemed as potentially dangerous by the public health authorities will dock, pursuant to the International Health Regulations, only after health checks have revealed that they pose no risk and free talking has been allowed.

Furthermore, it is advisable that PSCOs have appropriate personal protective equipment (which may include masks, hand sanitizers and other means to prevent the spread of the virus) before having contact with the crew, limiting, to the extent possible, the number of interactions with the personnel on board. It is also possible that the PSCO is invited to comply with other protocols or procedures introduced by the visiting ships to deal with the COVID-19.

Member Maritime Authorities are encouraged, in the event that PSCOs have applied follow-up measures for deficiencies identified during an inspection, which due to their nature do not present an unreasonable threat for the ship, the persons on board, the cargo carried and the marine environment (for example, codes 15 and 16), to apply the remote procedure approved to follow-up deficiencies (see paragraphs 26 to 28 of document CERP 16/J6), considering also to do it more broadly (code 17) and that the masters/ companies submit the relevant documentary evidence (RO reports, dispensations by the flag State, photographic records, videos, etc) of the corrective actions implemented on board.



In relation to IMO relevant instruments

Surveys and Audit intervals

Whenever a ship has not complied with the surveys and audits required by IMO instruments and, as appropriate, with the provisions of the Survey Guidelines under the Harmonized System of Survey and Certification (HSSC) in force, the ship must submit the port State evidence that the flag State has agreed to admit an exceptional delay, specifically with regard to the COVID-19. Furthermore, there should be available evidence that the ship has an action plan that envisages the ways in which the ship will return to the regular cycle of surveys and/or audits.

In case there is no evidence from the flag State, the ship will be given the treatment normally applied under the port State control procedures of the Viña del Mar Agreement.

This pragmatical flexibilization of the requirements determined in IMO instruments should be adopted by port States control regimes, provided that the lack of compliance with the requirements by the vessels does not exceed three (3) months. Every ship exceeding that period of grace of three (3) months must receive the normal treatment.

Duration of certificates

Pursuant to the requirements of the relevant conventions, the flag State Administration may extend the validity of certificates up to three (3) months or it may issue short-term certificates. The periods of validity will not exceed three (3) months from the date of expiry of the original full-term certificates. In this case, the ship must submit the port State control evidence that the flag State Administration agreed to admit an exceptional delay, specifically with regard to the COVID-19 and that there is an action plan that envisages the way in which the ship will undergo the renewal survey and audits, as appropriate.

In case there is no evidence from the flag State, the ship will be given the treatment normally applied under the port State control procedures of the Viña del Mar Agreement.

This pragmatical flexibilization of the requirements determined in IMO instruments should be adopted by port States control regimes, provided that the lack of compliance with the requirements by the vessels does not exceed three (3) months. Every ship exceeding that period of grace of three (3) months must receive the normal treatment.

Installation of a Ballast Water Management System

In case the ship is not able to meet the specific requirements of Regulation B-3 of the Ballast Water Management Convention (BWM 2004), mainly due to dry-docking delays arising from the outbreak of coronavirus (COVID-19), the port State must confirm that the flag State has agreed to admit an exceptional delay, specifically with regard to the COVID-19. Furthermore, there should be available evidence that the ship has a dispensation issued by the flag State and an action plan that envisages that the ship will meet the requirements set out in Regulation B-3 of BWM.

This pragmatical flexibilization of the requirements determined in BWM should be adopted by port States control regimes, provided that the lack of compliance with the requirements by the vessels does not exceed three (3) months. Every ship exceeding that period of grace of three (3) months must receive the normal treatment.



In relation to the Maritime Labour Convention (MLC 2006)

In view of the global impact of the outbreak of the new coronavirus (COVID-19), many flag States have agreed to consider the extension of duty periods of seafarers on board of vessels and acknowledged that it may be necessary to allow some degree of flexibility under certain circumstances. As a general principle, the relevant port State authorities will implement the following guidance on a case-by-case basis.

Extension of duty periods on board

When the ship notifies the port State of the need to extend duty periods of seafarers on board, the owner must submit an action plan or a documented process that envisages the way in which the amendments to the MLC will be managed. Such action plan or documented process should include or consist of:

- Amendments to the relevant parts of the Declaration of Maritime Labour Compliance- Parts I and II- regarding paragraph 10 of the Standard A5.1.3 of MLC, which provides substantially equivalent solutions to address the situation of the virus COVID-19, adopted under paragraph 3 of article VI of such convention; or
- a dispensation letter issued by the flag State that includes the appropriate conditions and action plan submitted by the shipowner with the description of the measures adopted to meet the conditions imposed by the flag State.

Regarding some of the possible aspects that the port State should be attentive to, the following details are relevant to any action plan or equivalent document that may be submitted in this regard:

- .1 The flag State has contacted the owner and he has inquired the crew and the relevant seafarers' organizations?
- .2 What are the intended voyages, in case the ship is not heading to areas affected by the pandemic COVID-19?
- .3 Do the members of the crew wish or request to stay on board? It has been noted that in certain cases crew members wish to stay on board as they cannot return to their homes because they live in areas affected by the COVID-19.
- .4 How will the rights of crew members be protected pursuant to MLC? The shipowner should specify how crew members' rights will be protected in view of their extended stay on board and the plans that the shipowner has conceived to repatriate them.

If the port State is satisfied, it may accept the proposals and will also consider the possibility to communicate this decision to the competent authorities of the next port that the ship proceeds to.

Review of the provisional guidance

This provisional guidance will be reviewed as appropriate, to stay aligned with the effects of the virus COVID-19 on international shipping and with the future initiatives of the IMO and the ILO, as applicable.