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Circular Letter No.4524/Add.2
31 March 2022

To: All IMO Member States
United Nations and specialized agencies
Intergovernmental organizations
Non-governmental organizations in consultative status with IMO

Subject: **Ukraine crisis – Harmonization of PSC activities**

1 The Council, at its thirty-fifth extraordinary session (10 to 18 March 2022), in considering the impacts of the situation in the Black Sea and the Sea of Azov on shipping and seafarers, recalled the purposes of the Organization as set forth in Article 1 of the IMO Convention, and the mission in the Strategic Plan of IMO to promote safe, secure, environmentally sound, efficient and sustainable shipping through cooperation.

2 C/ES.35 welcomed proposals for steps to be taken to reduce the suffering of seafarers and their families, including that, where port State control officers are presented with expired documentation, a pragmatic approach to the inspection should be taken, considering the exceptional nature of the situation (C/ES.35/D, paragraph 3.5.8).

3 This circular letter contains guidance issued by the Indian Ocean, Paris, and Tokyo Memoranda of Understanding on Port State Control and Viña del Mar Agreement concerning the repatriation of seafarers due to the situation in Ukraine, as set out in the annex.

4 Member States and other stakeholders are invited to bring the contents of this circular letter to the attention of all concerned, especially flag Administrations and port and coastal State authorities.



PSCircular 101

2 MARCH 2022

Guidance on repatriation of seafarers due to situation in Ukraine

Introduction

- 1 Following the developments in Ukraine, MAB considered that there is a need to apply flexibility under these circumstances considering difficulties to be encountered in repatriation of seafarers. In its decision MAB has taken due account to the views expressed by the Marine Transport Workers Trade Union of Ukraine (MTWTU – ITF affiliate) (<https://mtwtu.org.ua/en/news/mtwtus-official-statement-on-crew-change-of-ukrainian-seafarers>).
- 2 It is acknowledged that the effects on repatriation is not limited to Ukrainian seafarers on board ships flying the flag of Ukraine, but to all seafarers caught up in the present situation..
- 3 In applying flexibility, due regard is to be paid to the experiences gained with issues regarding repatriation, (re)validation of STCW and MLC certificates during the COVID-19 pandemic.

Repatriation

- 4 With respect to the issue of application of flexibility, if appropriate, the port State should be assured that, in case the maximum duration of the seafarers' employment agreement (SEA) has expired, seafarers are not able or willing to return home due to the war. In making his/her decision the PSCO should take into account any available documentation provided by the MLC shipowner and the flag State and information from the relevant crew members.
- 5 Any extension of the period of service on board beyond the default 11 months should be authorized only on a case-by-case basis to face the emergency situation and only with the seafarer's consent.
- 6 Flag States remain responsible for enforcing compliance with the MLC. Similarly to the circumstances during the COVID-19 pandemic, port States are therefore urged to specifically require written evidence of the flag State's authorization for each vessel including (a list of) individual seafarers performing any period of service on board beyond the default 11 months. It is recalled that, in any way, a valid SEA must remain in force until the seafarer is duly repatriated in accordance with Regulation 2.5 of the MLC, 2006.
- 7 A vessel should be treated in the normal manner where an SEA is expired.

8 STCW Certification

Similarly to the circumstances during the COVID-19 pandemic, seafarers may face issues with STCW certification. In making his/her decision the PSCO should take into account any available documentation provided by the appropriate maritime administration and the flag State and information from the relevant crew members.

9 Medical Certificates

In cases where it has been difficult for seafarers to renew or extend their medical certificate the flag administration may allow seafarers to serve on-board. PSCOs should accept documents produced by flag States which acknowledges seafarers' extended stay on board due to force majeure associated with the circumstances in Ukraine.

Review of the guidance

- 10 This PSCircular will be reviewed, as appropriate, to keep aligned with developments and future initiatives by relevant stakeholders.





INTERIM GUIDANCE RELATING TO UKRAINIAN SEAFARER REPATRIATION DUE TO THE REGIONAL CONFLICT

Introduction

1 The members of the Tokyo MOU have agreed that in noting the impact of the conflict in Ukraine it is important to adopt a common approach for implementing inspection activities in respect to the repatriation of Ukrainian seafarers. This is in addition to interim measures relating to COVID-19 circumstances (Circular letter 2021-1, 1 March 2021), as there is a need to apply flexibility and pragmatism on the issue of extending periods of service on board ships. As a general principle, requests would be considered on a case by case basis by the relevant port State.

2 It is acknowledged that the effect on repatriation may not be limited to Ukrainian seafarers but may impact other seafarers caught up in the present situation.

Statement by Marine Transport Workers Trade Union of Ukraine.

3 The Marine Transport Workers Trade Union of Ukraine (MTWTU) issued a statement on 25 February 2022 outlining the difficulties in repatriating seafarers to Ukraine given the conflict in that region. The MTWTU requested that Seafarers who had reached the maximum contract duration be permitted to remain onboard as long as possible until it is safe for the seafarers to return home¹.

4 Where seafarers are willing to return home on the expiry of their contract the MTWTU request that the seafarer be provided tickets to safe countries in the region as well as the funds required to travel from that airport to Ukraine.

The need for flexibility

5 Travel to the region has been made difficult due to the combination of the conflict in Ukraine and the COVID-19 pandemic. In addition, there is a foreseeable risk to the safety of the seafarer returning to a conflict zone. It is likely that some seafarers will request to remain onboard their ship rather than return home until such stage as the situation stabilises. The ability of relieving crew from the conflict area to travel to the ships on which they are to serve may be difficult resulting in delays getting relief crew to their ships.

6 Payment of wages, including allotments, in accordance with MLC2006 may be difficult due to the impact on the banking system in Ukraine and the wider region. Alternative arrangements may need to be put in place to pay seafarers and facilitate the payment of any allotments to dependents.

¹ Where a Seafarer request early repatriation this should be agreed with the ship owner/operator in accordance with Standard 2.5(b)(ii), in respect of termination of contract, and Standard 2.5(c) in respect of repatriation.



Guidelines for port States

7 Noting the MTWTU have requested that flexibility be considered, where an extension of service is envisaged the port State should request the operator of the ship to confirm that the flag State has been advised of the planned extension and has acknowledged it.

8 When advising the port State of the need to extend periods on board the operator should confirm that the seafarer(s) in question have requested, or agreed to, the extension and there is a plan or process that covers how variations to the MLC requirements would be managed. This plan or process may include, or consist of:

- a. Amendments to the relevant parts of the Declaration of Maritime Labour Compliance – Part I & II respect of section 10 of Standard A5.1.3 of the MLC that to provide specific equivalent solutions to address the 2019-nCoV virus situation; and/or.
- b. Agreement of the flag States including appropriate conditions, accompanied by a plan submitted by the ship owner describing what measures being taken to comply with the conditions imposed by the flag State; and/or.
- c. Other mechanisms that will ensure the welfare of seafarer has not been compromised while waiting to travel home (such as agreed repatriation to another country).

9 In considering the measures to mitigate the situation the port State should examine the following factors:

- (i) Whether the seafarer requested to extend their contract voluntarily due to a perceived risk. In such cases extension should generally be permitted.
- (ii) Whether the flag State has acknowledged the request for extension and the plan to repatriate seafarers as soon as is safe and practical.
- (iii) Where the operator requests an extension, whether the individual seafarers are willing to stay on board? There can be no uncertainty about this element.
- (iv) Whether the seafarers' entitlements under MLC are protected. The ship owner should advise how the seafarers' entitlements are to be protected in light of the extended stay on board and what plans the ship owner has to repatriate them.
- (v) Whether the ship owner has put alternative arrangements in place to pay seafarers and/or arrange for the payment of allotments to dependents. If so, whether this has been agreed in writing by the seafarer and there is evidence of payment.

If the port State is satisfied and does not object to such proposals this should be communicated to the administration of the next port the vessel is headed to. It is the responsibility of the operator to confirm the next port similarly has no objection.



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Circular Letter No. 1/2022

Date: 22.03.2022

Interim Guidance on repatriation of seafarers due to situation in Ukraine

Introduction

- 1 Noting the impact of the conflict in Ukraine and considering the decision taken during the C/ES 35 by IMO, the member Authorities of the Indian Ocean MOU have agreed to consider the issue of repatriation of Ukrainian seafarers, as there is a need to apply flexibility and pragmatism on the issue of extending periods of service on board ships (refer IMO Docs C/ES.35/WP.1). Also, views expressed by the Marine Transport Workers Trade Union of Ukraine (MTWTU – ITF affiliate) are taken into consideration.
- 2 These guidelines would be considered on a case-by-case basis by the relevant port State Authority and the effect on repatriation may not be limited to the Ukrainian seafarers only, but may also impact other seafarers those who are caught up in the present situation.

Statement made by the Marine Transport Workers Trade Union of Ukraine:

- 3 The Marine Transport Workers Trade Union of Ukraine (MTWTU) issued a statement on 25 February 2022 outlining the difficulties in repatriating seafarers to Ukraine given the conflict in that region. The MTWTU requested that Seafarers who had reached the maximum contract duration of the **seafarers' employment agreement (SEA)**, be permitted to remain onboard as long as possible until it is safe for the seafarers to return home.
- 4 Where seafarers are willing to return home on the expiry of their SEA, the MTWTU requested that the seafarer be provided with tickets to safe countries in the region as well as the funds required to travel from that airport to Ukraine.

The need for flexibility

- 5 Travel to the region has been made difficult due to the combination of the conflict in Ukraine and the COVID-19 pandemic. In addition, there is a foreseeable risk to the safety of the seafarer returning to a conflict zone. It is likely that some of the seafarers will request to remain onboard their ship rather than return home until such stage as the situation stabilises. The ability of relieving crew from the conflict area to travel to the ships on which they are to serve may be difficult resulting in delays getting relief crew to their ships.

- 6 Similarly, to the circumstances during the COVID-19 pandemic, seafarers may face issues with STCW certification. In making his/her decision the PSCO should take into account any available documentation provided by the appropriate maritime administration and the flag State and information from the relevant crew members.
- 7 Payment of wages, including allotments, in accordance with MLC 2006 may be difficult due to the impact on the banking system in Ukraine and the wider region. Alternative arrangements may need to be put in place to pay seafarers and facilitate the payment of any allotments to dependents and in applying flexibility, due regard is to be paid to the experiences gained with issues regarding repatriation, (re)validation of STCW and MLC certificates during the COVID19 pandemic.

Guidelines for port States

- 8 Noting that the MTWTU have requested that flexibility be considered, where an extension of service is envisaged, the port State should request the ship operator to confirm that the flag State has been advised of the planned extension and has acknowledged it.
 - 9 When advising the port State of the need to extend periods on board, the ship operator should confirm that the seafarer(s) in question have requested, or agreed to, the extension and there is a plan or process that covers how variations to the MLC requirements would be managed. This plan or process may include, or consist of:
 - a. amendments to the relevant parts of the Declaration of Maritime Labour Compliance – Part I & II respect of section 10 of Standard A5.1.3 of the MLC that to provide specific equivalent solutions to address the 2019-nCoV virus situation; and/or.
 - b. agreement of the flag States including appropriate conditions, accompanied by a plan submitted by the ship owner describing what measures being taken to comply with the conditions imposed by the flag State; and/or.
 - c. if seafarers face issues with STCW certification the PSCO is advised to take into account of any available documentation provided by the appropriate maritime administration and the flag State and information from the relevant crew members.
 - d. in cases where it has been difficult for seafarers to renew or extend their medical certificate the flag administration may allow seafarers to serve on-board. PSCOs may be advised to accept documents produced by the flag States which acknowledges seafarers extended stay on board due to force majeure associated with the circumstances in Ukraine.
 - e. any other mechanisms that will ensure the welfare of seafarer has not been compromised while waiting to travel home (such as agreed repatriation to another country).
 - 10 In considering the measures to mitigate the situation as mentioned above, the port State is advised to take actions as appropriate, based on pragmatic and practical approach.
 - 11 If the port State is satisfied and does not object to such proposals, then the same may be communicated to the administration of the next port the vessel is headed to. It is the responsibility of the operator to confirm the next port similarly has no objection.
 - 12 This IOMOU Circular will be reviewed, as appropriate, to keep aligned with latest developments and future initiatives by relevant stakeholders.
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SECRETARIAT OF THE LATIN AMERICAN AGREEMENT ON PORT STATE CONTROL
OF VESSELS

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

“Provisional guidance for the control of the provisions related to the repatriation of seafarers due to the situation in Ukraine”

Introduction

1. Following the developments in Ukraine, the impact of which is directly affecting safety and protection of seafarers and maritime transport, as well as worldwide supply chains, awareness has been raised as regards port States' need to adopt a pragmatic and flexible approach to inspections in light of the exceptional basis of the situation.
2. Furthermore, it is acknowledged that the effects on repatriation is not limited to Ukrainian seafarers on board ships flying the flag of Ukraine, but to all seafarers caught up in the present situation.
3. Seafarers with certificates of competency and associated documentation issued by the countries engaged in the conflict will face difficulties within the next months when seeking their renewal. The PSCOs may encounter seafarers whose documentation has expired.
4. In applying flexibility, due regard is to be paid to the experiences gained with issues regarding repatriation, validation of STCW and MLC certificates during the COVID19 pandemic.

Repatriation

5. PSCOs are encouraged to use their professional judgment when evaluating the safety risks caused by extending agreements for long periods of service, reviewing levels of stress and fatigue of seafarers who have already finished performing their period of service on board and facilitating repatriation and crew changes in an appropriate manner.
6. With regard to flexibility and pragmatic performance, port States should be assured that, in case the maximum duration of the seafarers' employment agreement (SEA) has expired, seafarers are not able or willing to return home due to the war. In making his/her decision, the PSCO should take into account any available documentation provided by the shipowner and the flag State and information from the relevant crew members.
7. Any extension of the period of service on board beyond the default 11 months, which arise from the MLC, should be authorized only on a case-by-case basis to face the emergency situation and only with the seafarer's consent.
8. Flag States remain responsible for enforcing compliance with the MLC 2006. Similarly to the circumstances during the COVID-19 pandemic, port States are therefore urged to specifically require written evidence of the flag State's authorization for each vessel including (a list of) individual seafarers performing any period of service on board



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SECRETARIAT OF THE LATIN AMERICAN AGREEMENT ON PORT STATE CONTROL
OF VESSELS

beyond the default 11 months, which arise from the MLC. It is recalled that, in any way, a valid SEA must remain in force until the seafarer is duly repatriated in accordance with Regulation 2.5 of the MLC, 2006.

9. A vessel should be treated in the normal manner where an SEA is expired.

STCW Certification

10. Similarly to the circumstances during the COVID-19 pandemic, seafarers may face issues with STCW certification, including medical certificates and endorsements as provided in the Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended. In making his/her decision, the PSCO should take into account any available documentation provided by the appropriate maritime administration and the flag State and information from the relevant crew members.

Medical Certificates

11. In cases where it has been difficult for seafarers to renew or extend their medical certificate, the flag State may allow seafarers to serve on-board. PSCOs should accept documents produced by flag States which acknowledge seafarers' extended stay on board due to force majeure associated with the circumstances in Ukraine.

Review of the guidance

12. This provisional guidance will be reviewed, as appropriate, to keep aligned with developments and future initiatives by relevant stakeholders.
