



**Secretariat
Caribbean Memorandum of Understanding on
Port State Control**

*Located at
Maritime Authority of Jamaica
12 Ocean Boulevard, 2nd Floor, The Ocean Centre Building
Kingston, Jamaica, W.I.
Tele: (876) 967-1077 Fax: (876) 922-5765
Email: secretariat@caribbeanmou.org
Website: www.caribbeanmou.org*

REVISED GUIDANCE FOR DEALING WITH IMPACT OF THE OUTBREAK OF THE COVID-19 RELATING TO RELEVANT IMO CONVENTIONS

Introduction

Noting the global impact of COVID-19 and considering the relevant IMO Circular Letters, the member Administrations of the Caribbean MOU, as recommended by the Technical Standing Working Group (TSWG), have agreed to consider the issue of delaying periods for the surveys, inspections and audits, and accept there may be a need to apply flexibility under the special circumstances. As a general principle the following guidelines would be applied on a case by case basis by the relevant port State Administration.

Guidelines for port States

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.

In some cases, rather than physical attendance on the vessel, remote surveys and audits may be accepted by flag States as a means of fulfilling requirements. Evidence of compliance with agreed procedures, including certificate endorsement, should be provided.

Where there is no evidence from the flag State, the ship should be treated in the normal manner as per the Caribbean MOU PSC procedures.

This pragmatic relaxation of requirements should be applied by port States on ships which have been confirmed by the flag State and/or RO that an appropriate grace period had been given. Any vessel beyond the grace period given by the flag State and/or RO should be treated in the normal manner.

Duration of certificates

Giving consideration that an exceptional extension of validity of certificates specific to COVID-19 would be inevitable for certain ships the flag State and/or RO may extend the validity of certificates to an appropriate grace period specific to COVID-19. Where there is no appropriate

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extension issued by the flag State and/or RO, the ship should be treated in the normal manner as per the Caribbean MOU PSC procedures.

This pragmatic relaxation of requirements should be applied by port States on ships which have been given appropriate extension for its certificates by the flag State and/or RO. Any vessel beyond the grace period given by the flag State and/or RO should be treated in the normal manner.

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 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.

This pragmatic relaxation of requirements should be applied by port States on ships which have been confirmed by the flag State and/or RO that an appropriate grace period had been given. Any vessel beyond the grace period given by the flag State or RO should be treated in the normal manner.

MARPOL Annex VI aspects

Fitting of exhaust gas cleaning systems (scrubbers) may be delayed due to supply and installation issues related to COVID-19, which could in turn lead to vessels having non-compliant fuel retained on board in anticipation of the installation and testing of the new system. The isolation of the non-compliant fuel from the in-service tanks should be confirmed as being in accordance with flag permissions. Appropriate entries in the engine room logbook and oil record book can be verified.

This pragmatic relaxation of requirements should be applied by port States on ships which have been confirmed by the flag State that an appropriate grace period had been given. Any vessel beyond the grace period given by the flag State should be treated in the normal manner.

MLC 2006

The TSWG has considered that while there was a need to apply flexibility in the region under the circumstances on the issue of extending periods of service on board ships, this situation is currently normalizing towards the pre-pandemic situation (although local lockdowns in port States could still be considered necessary by national authorities in specific cases). As several months have passed since the start of the pandemic, issues of fatigue and mental health of seafarers may have deteriorated to a point that they may endanger health and safety.

With respect to the issue of the application of flexibility, the port State should be provided by the MLC shipowner of the ship with confirmation that the flag State, the relevant crew members

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and relevant seafarer organisations (if applicable) have been involved in the process of extending contracts, as well as other issues that have an impact on the rights of seafarers as set out in the MLC. Furthermore, where there are clear grounds to believe that crew members are suffering from fatigue or otherwise not fit for duty, the port State should require appropriate corrective action and consider to inform the flag State.

Further guidance regarding what the port State should look at in case of non-compliance with MLC due to COVID-19, could be found in ILO's "Information note on maritime labour issues and coronavirus (COVID-19) – revised version 2.0":

https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/genericdocument/wcms_741024.pdf

The Information note does not specify a maximum extension of the period of service on board, however highlights that the extension of the period of service on board beyond the default 11 months should be authorized only on a case-by-case basis and when strictly necessary to face the emergency situation created by the pandemic and only with the seafarer's consent. It is recalled that a valid seafarers' employment agreement must remain in force until the seafarer is duly repatriated in accordance with Regulation 2.5 of the MLC, 2006. If repatriation is not possible through scheduled ports of call, the possibility to divert the ship to a port where repatriation is possible should be taken into account. Circumstances rendering repatriation more difficult or burdensome do not constitute a case of force majeure.

Under the current pandemic situation, regular inspection routines are being resumed. In view of the ILO reporting 150,000 to 200,000 seafarers that remain on board because of measures to contain the pandemic, port States are urged to apply an enhanced focus on MLC issues and in particular SEAs, irrelevant of the inspection type. If deviations are found, the port State should request a plan or process that covers how variations to the Maritime Labour Convention (MLC) requirements are being managed as well as a plan regarding repatriation and/or crew rotations for any crew who have been on board for longer than the period specified in their SEAs. Any crewmember who has already spent more than the default 11 months on board should be prioritised for repatriation.

STCW Certification

The TSWG 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 issuing 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.

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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. The PSCO should accept documents produced by flag States which acknowledges the seafarers extended stay on board due to force majeure associated with COVID-19.

Review of the guidance

This guidance may be further reviewed as appropriate to keep aligned with developments of the COVID-19 virus and future initiatives by IMO.

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