

ANAVE – Circular de Régimen Interior

Madrid, 19 de marzo de 2020
Ref: SMA 22/2020/AB

Asunto: MOU de París - Coronavirus: Directrices provisionales de las autoridades de Port State Control relacionadas con el COVID-19

Muy Srs. nuestros:

Las autoridades del MOU de París han publicado unas directrices provisionales para adoptar un enfoque práctico y **flexibilizar las inspecciones de Port State Control (PSC)** en estas circunstancias especiales generadas por el COVID-19 (ver **Anexo**).

En las inspecciones MOU, se va a permitir prorrogar la validez de los certificados siempre que se cumplan estos 2 requisitos:

- Disponer de **prueba documental** de que el **Estado de bandera permite dicha extensión** debido a la situación por el COVID-19.
- Que el **armador** haya programado un “**plan de contingencia**” para llevar a cabo los reconocimientos estatutarios para renovar los certificados caducados, **una vez se normalice la situación**.

Esta circular del MOU plantea una aplicación flexible similar para los **reconocimientos y auditorías, la instalación de los sistemas de gestión del agua de lastre (BWMS), MLC 2006** (posibilidad de ampliar los periodos de servicio de la gente de mar a bordo del buque), **títulos profesionales y certificados médicos**. Para cada una de estas materias, el documento explica con detalle el procedimiento a seguir.

Como les informamos en nuestra circular de ref. SMA 17/2020/AB de 16 de marzo, la DGMM va a publicar de forma inminente una Orden Ministerial para ampliar la validez de los títulos y certificados que caduquen durante la vigencia del estado de alarma y suspender las inspecciones programadas. Dicha Orden cumpliría el primer requisito que exige el MOU (prueba documental del Estado de bandera) para permitir la prórroga de los certificados. En la misma circular, les adjuntábamos un Oficio del ISM sobre la prórroga de la validez de los certificados de sanidad y el certificado de aptitud previo al embarque (reconocimiento médico).

Saludos cordiales,

Manuel Carlier
Director General



PSCircular 97

18 MARCH 2020

TEMPORARY GUIDANCE RELATED TO COVID-19 FOR PORT STATE CONTROL AUTHORITIES

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, 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 Further to this guidance and measures taken by member Authorities, the International Maritime Organization is providing circular letters on the matter, including for port State control:
<http://www.imo.org/en/MediaCentre/HotTopics/Pages/Coronavirus.aspx>
A document for preparedness and response to cases of COVID-19 at points of entry in the EU/EEA Member States (MS), has been prepared by the EU:
<https://www.parismou.org/system/files/Healty%20Gateways%20info%20for%20ships%20to%20prepare%20for%20COVID-19.pdf>

Preventive measure to halt the spread of COVID-19

- 4 PSCOs should be guided by the preventive measures adopted by their Maritime Administrations. MAB has noted that a number of Paris MoU member States have implemented measures to limit the number and/or extent of PSC inspections. MAB has considered that an overview of measures by individual member States should be posted on the internal part of the website for information purposes to the member States. Members are requested to inform the Secretariat of any such measures, or changes thereto. The overview can be found on
<https://www.parismou.org/members/training/training-agenda/corona-basic-information>
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 and is not a question of choice or convenience of the ship-owner, claiming the vessel to be self-isolated. 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
In accordance with the relevant convention requirements, the flag State Administration may extend the validity of certificates up to three months or may issue short term certificates, the period of the validity is no more than three months from the expiry date of the full term original certificates. 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 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 exceeded the requirements by not more than three months. Any vessel beyond the grace period of three months should be treated in the normal manner.

Personnel issues due to COVID-19

- 11 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.

The operator should provide a plan or process that covers how variations to the MLC requirements would be managed. This plan or process may include, or consist of:

- Amendments to the relevant parts of the Declaration of Maritime Labour Compliance – Part I & II
- Letter of dispensations issued by 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.

As an indicator of what the port State should look at, details such as those listed below would be relevant to any plan or equivalent issued:

- Has the flag State been engaged and has the operator also consulted with the crew and relevant seafarer organisations?
- What are the anticipated voyages noting such latitude may not be required where the vessel is not headed toward a COVID-19 area.
- Are the crew willing to, or requesting to, stay on board? There can be no uncertainty about this element. It has been noted that in some cases crew may want to remain on board as they cannot get home where they live in a COVID-19 area.
- How are the crew' entitlements under MLC to be protected? The ship owner should advise how the crews' entitlements are to be protected in light of the extended stay on board and what plans the ship owner has to repatriate them.

12 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.

13 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.

14 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

- 15 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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