

28 July 2021

INTERIM GUIDELINE RELATING TO THE COVID-19 CIRCUMSTANCES

Introduction

1 The Port State Control Committee has considered and agreed that, noting the global impact of the Covid-19, there is the practical need to apply flexibility under these special circumstances. Within the Black Sea region, national measures will be implemented by member authorities that are, to a large extent affecting the port State control regime. While the Covid-19 remains an issue, the following guidelines should be applied on a case by case basis by member Authorities of the BS MoU.

2 This guidance focusses on the effect of the Covid-19 crisis on the Black Sea MoU in relation to:

- preventive measure to halt the spread of the Covid-19
- ship certification issues and the Covid-19
- crew related issues and the Covid-19

3 A summary of relevant national measures for the Covid-19 pandemic would be available on the BS MoU website: www.bsmou.org

Preventive measure to halt the spread of Covid-19

4 PSCOs should be guided by the preventive measures adopted by their own Authorities, including the use of appropriate personal protective equipment (PPE) in order to protect themselves as well as the ship's crew. Reference should be made to IMO Circular Letter No.4204/Add.15 "Coronavirus (Covid 19) - Personal protective equipment".

5 When developing preventive measures, it is considered that the following common aspects may be taken into account:

- Health and hygiene instruction/recommendation (e.g. good hygiene including hand washing, good social distancing practices, etc.)
- Personal protective equipment (PPE) (e.g. masks, face shield, gloves, protective suits, etc.)

6 When member Authorities deciding which ships are to be subject to PSC inspections, P1 ships and ships with overriding priority are expected to be selected as far as possible.

Ship Certification Issues and the Covid-19

7 In relation to the Covid-19 situation, it may occur that a ship cannot fulfil the requirements of 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 relevant instruments remains with the shipowner and flag State, Nevertheless, in the case where the shipowner 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

member authorities should adopt a pragmatic approach and also be flexible as this is a rapidly developing situation, while keeping in mind the principles of elimination of substandard shipping.

Interval of surveys and audits required by Conventions

8 In the event that a ship has not complied with the requirements of the surveys, inspections and audits contained in the relevant convention requirements (e.g. SOLAS Chapter I Regulation 7-10 and 14, etc.), the ship must provide evidence to the port State that the flag State has agreed to an exceptional delay specific to the 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. IMO Circular Letter No.4204/Add.19 – “Guidance for flag States regarding surveys and renewals of certificates during the Covid-19 pandemic” guides the extension of the interval of surveys and audits.

9 Where there is no evidence from the flag State, the ship should be treated in the normal manner as per the BS MoU PSC Procedures.

Duration of statutory certificates

10 Giving consideration that an exceptional extension of validity of certificates specific to the 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 the Covid-19. Further guidance regarding the extension of validity of certificates can be found in IMO Circular Letter No.4204/Add.19.

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 the Covid-19, unless it is evident that the Covid-19 pandemic is used as an excuse to breach the Convention requirements.

12 Where there is no appropriate extension issued by the flag State and/or RO, the ship should be treated in the normal manner as per the BS MoU PSC Procedures.

Installation of Ballast Water Management System

13 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 the Covid-19, the port State Authority should seek confirmation that the flag State has agreed to an exceptional delay specific to the 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.

14 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 the Covid-19, unless it is evident that the Covid-19 pandemic is used as an excuse to breach the Convention requirements.

15 Where there is no evidence from the flag State, the ship should be treated in the normal manner as per the BS MoU PSC Procedures.

MARPOL Annex VI aspects

16 Fitting of exhaust gas cleaning systems (scrubbers) may be delayed due to supply and installation issues related to the 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.

17 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.

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

Crew related issues and Covid-19

MLC 2006

19 Due to the outbreak of the pandemic, it was considered that there was a need to apply flexibility in the region under the circumstances on the issue of extending periods of service on board ships.

20 The guidance regarding what the port State should look at in case of non-compliance with MLC due to the Covid-19, could be found in ILO's "Information note on maritime labour issues and coronavirus (Covid-19)"

([https://www.ilo.org/global/standards/maritime-labour-convention/WCMS_741024/lang--en/index.htm](https://www.ilo.org/global/standards/maritime-labour-convention/WCMS_741024/lang-en/index.htm)).

21 With respect to the issue of application of flexibility, if appropriate, the port State should be provided by the MLC shipowner of the ship with confirmation that the flag State, the relevant crew members and relevant seafarer organizations (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.

22 In view of the large number of seafarers long overdue for repatriation, 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, in particular regarding repatriation and/or crew rotations for any crew who have been on board beyond the default 11 months, the port State should, in line with MLC requirements and guidelines for port State control, request a rectification plan, approved by the flag State, that covers how variations to the Maritime Labour Convention (MLC) requirements are being managed, and includes possibilities of repatriation at next ports of call. In addition, in such cases, the port State should notify the port State control authorities in upcoming ports of call of the agreed plan and consider entering an appropriate ship-related message. Any crewmember who has already spent more than the

default 11 months on board should be prioritized for repatriation. A vessel should be treated in the normal manner where an SEA is expired.

STCW Certification

23 In some cases 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.

Medical Certificates

24 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 the Covid-19.

Review of the guideline

This guideline may be further reviewed, as appropriate, to keep aligned with developments of the Covid-19 pandemic and future initiatives by IMO and other relevant stakeholders.