



## BS MOU DETENTION REVIEW BOARD PROCEDURE

1 Section 3.14 of the BS MoU states that “the owner or the operator of a ship will have the right of appeal against a detention decision to higher administrative Authority or to the court of competent jurisdiction, according to the law in each country. However, an appeal shall not cause the detention to be suspended”.

2 Owners or operators should be advised to use official national procedure according to the national jurisdiction of the country where the detention order was issued, if they wish to appeal against a detention order. National Detention Appeal Procedures for the Black Sea MoU member States is available via: <http://www.bsmou.org/category/det-rev-and-nat-der-app/nat-det-app/>.

3 Only if it is declined by any interested party to use the official national appeal procedure, but the owner or operator still wishes to complain about a detention decision, such a complaint should be sent to the flag State or the recognized organization (if authorised to act for the flag State).

4 The flag State or the recognized organization may then submit a reconsideration request to the port State regarding its decision to detain the ship.

5 In such cases the port State should investigate the decision and inform the flag State or the recognized organization of the outcome. If the port State agrees to reverse its decision it should also inform the BSIS Manager and the Secretariat.

### **Submission of a case for review:**

6 If the flag State or the recognized organization disagrees with the outcome, or a port State's outcome has not been received within a reasonable time, a request for detention review may be sent to the Secretariat within 90 days from the date of release of the vessel from detention. Such a request should be accompanied by all information relevant to the detention and the flag State's or recognized organization's request for the port State's reconsideration in electronic format (e-mail) and in the English language.

7 The Secretariat will set up a “Detention Review Board” comprising of 3 MoU Authorities requested on an alphabetically rotating basis, excluding the port State, flag State (if applicable). The members of the Board will remain anonymous until the review case has been finalized.

8 The Secretariat will also inform the port State of the request for review and invite the port State to submit relevant information.

9 The Detention Review Board will consider the procedural and technical aspects of the inspection based on the information provided by the flag State and/or recognized organisation and the port State.

10 The Secretariat will prepare a final summary of the opinions of the Detention Review Board and will inform the flag State or the recognized organization, as appropriate. The detail of correspondence between the Detention Review Board and the port State will be kept as an internal matter.

11 If the views of the Detention Review Board support the flag State or the recognized organization's complaint, the port State will be requested to reconsider its decision again.

12 The findings of the Detention Review Board are not binding but may provide justification for the port State to amend its inspection data already inserted in the BSIS and to inform the Secretariat and the BSIS Manager accordingly. The recommendation of the Detention Review Board could not be used as a ground for claiming a financial compensation. The Secretariat will inform the flag State or the recognized organization, as appropriate on the action (not) taken by the port State.

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