

10 May 2022

Interim Guidance on Repatriation of Seafarers due to the Conflict in Ukraine

Introduction

1 Noting the impact of the aggression by the Russian Federation against Ukraine and considering the decision taken by the thirty-fifth extraordinary session of the IMO Council, the member Authorities of the Black Sea MoU have agreed to consider the issue of repatriation of Ukrainian seafarers, and also agreed that it is important to adopt a common approach for implementing inspection activities in respect to the repatriation of seafarers.

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.

3 The views expressed by the Marine Transport Workers Trade Union of Ukraine (MTWTU – ITF affiliate) are taken into consideration.

4 There is a need to apply flexibility and a pragmatic approach on the issue of extending periods of service onboard ships.

5 Travel to the region has been made difficult due to the aggression against Ukraine. Also, there is a foreseeable risk to the safety of the seafarer returning to a war zone area. It is likely that some seafarers will request to remain onboard their ship rather than return home until such stage as the situation stabilizes. 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 in getting relief crew to their ships.

6 Payment of wages, including allotments, in accordance with MLC, 2006 may be difficult due to the possible 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.

7 These guidelines would be considered on a case-by-case basis by the relevant port State Authority.

8 In applying flexibility, due regard is to be paid to the experiences gained with issues regarding repatriation, and the validation of STCW and MLC certificates during the Covid-19, Pandemic.

Statement made by the Marine Transport Workers Trade Union of Ukraine

9 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 Russian Federation military aggression 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.

10 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.

Repatriation and Guidelines for port States

11 With respect to flexibility and pragmatic approach, the port State should be assured that, seafarers with certificates of competency and associated documentation issued by Ukraine might face difficulties when seeking their renewal. The PSCOs may encounter seafarers whose documentation has expired. PSCOs are encouraged to use their professional judgment, taking into account any available documentation provided by the MLC shipowner and the flag State and information from the relevant crew member(s) to evaluate 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.

12 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.

13 Flag States remain responsible for enforcing compliance with the MLC. Similar to the circumstances during the Covid-19, Pandemic, the port State is 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. And the vessel should be treated in the normal manner where a SEA is expired.

14 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 with respect to section 10 of Standard A5.1.3 of the MLC that to provide specific equivalent solutions to address the Covid-19, Pandemic; and/or.
- b. agreement of the flag States including appropriate conditions, accompanied by a plan submitted by the ship owner describing what measures are 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 State which acknowledge seafarers extended stay on board due to force majeure associated with the military aggression against 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).

15 In considering the measures to mitigate the situation, the port State is advised to take actions as appropriate, based on a pragmatic and practical approach. To consider the situation, the port State may examine the following factors:

- (i) Whether the seafarer requested to extend their contract voluntarily due to perceived risk. In such cases, the 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.

16 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.

17 This Interim Guidance would be reviewed, as appropriate, to keep aligned with the latest developments and future initiatives by relevant stakeholders.
