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Circular Letter No.4204/Add.37  
22 December 2020

To: All IMO Member States  
United Nations and specialized agencies  
Intergovernmental organizations  
Non-governmental organizations in consultative status with IMO

Subject: **Coronavirus (COVID 19) – Third video meeting for Port State Control (PSC) regimes on harmonized actions at the time of pandemic of Covid-19**

## General

1 The Secretary-General wishes to advise that a third video meeting with nine Port State Control (PSC) regimes was held on 18 December 2020 with a view to promoting harmonized action with respect to PSC inspections at this time of the COVID-19 pandemic. The meeting was attended by representatives of the Abuja, Black Sea, Caribbean, Indian Ocean, Mediterranean, Paris and Tokyo Memoranda of Understanding (MoUs), the Viña del Mar Agreement, as well as the United States Coast Guard (USCG), as a national regime, the Secretariat of the International Labour Organization (ILO), the International Association of Classification Societies (IACS), the International Chamber of Shipping (ICS), the International Ship Managers' Association (InterManager) and the International Transport Workers' Federation (ITF). The recorded opening remarks of the Secretary-General can be accessed at <https://www.imo.org/en/MediaCentre/SecretaryGeneral/Pages/3rd-PSC-meeting.aspx>

## Seafarers' recognition as key workers

2 The meeting approved the detailed agenda, as set out in annex 1, and was briefed about the recent emergency response and measures to the pandemic of COVID-19 taken by the United Nations, IMO, ILO, Member States, PSC regimes and the industry. In this context, the meeting noted the adoption, by the United Nations General Assembly (UNGA), of resolutions A/74/L.92, A/75/4, A/75/L.37, and the emphasis on the call for the recognition of seafarers as key workers. In this context, the meeting took into account the information contained in Circular Letter No.4204/Add.35/Rev.1 indicating that, by the date of issuance of the Circular Letter, the Secretary-General had received 49 notifications from Member States and Associate Members that have designated seafarers as key workers.

## Resumption of meetings

3 The meeting noted information on the resumption of meetings of IMO bodies and committees of PSC regimes, in a virtual context. The following outcome was particularly highlighted with regard to IMO meetings:

- .1 adoption of resolution MSC.473(ES.2) on *Recommended action to facilitate ship crew change, access to medical care and seafarer travel during the COVID-19 pandemic*;
- .2 approval of MSC.1/Circ.1636 on *Industry recommended framework of protocols for ensuring safe ship crew changes and travel during the Coronavirus (COVID-19) pandemic*;
- .3 agreement for the development of a Global Integrated Shipping Information System (GISIS) module on ports facilitating crew changes;
- .4 decision to develop amendments to the Convention on Facilitation of International Maritime Traffic (FAL) to ensure the facilitation of maritime traffic during a public health emergency of international concern;
- .5 development of guidelines for port State and flag State authorities on how to deal with seafarer abandonment cases;
- .6 consideration of the provision of information on insurance certificates under the Maritime Labour Convention (MLC) 2006, into the PSC ship inspection report and the conduct of a Concentrated Inspection Campaign (CIC) on financial security regarding the 2014 MLC amendments; and
- .7 status of Circular Letters Nos.4204 and 4237 and addenda.

#### **Promotion of awareness and cooperation among various actors**

4 The meeting expressed its appreciation for the convening of meetings, such as the present one, for sharing information, harmonizing actions and promoting awareness and cooperation among various actors and the opportunity to praise the unseen level of cooperation among actors, such as ILO, IMO, ICS and ITF. In the same context, the meeting welcomed information on the work carried out by the IMO Seafarer Crisis Action Team (SCAT), the Marine Coronavirus Strategy Group and the Group on Coordinated Strategy on Crew Changes.

5 Following up on matters discussed in the context of the two previous video meetings for PSC regimes, the meeting noted the status of the situation on extended validity of certificates and the reported limited use of remote surveys and remote audits under the ISM and ISPS Codes.

6 The meeting noted the views expressed on the importance of flag States' instructions to recognized organizations, in particular, in the current context of MLC-related inspections and serious deficiencies requiring to be solved prior to the ships' departure. Information on the ILO Information Note on the Occupational Safety and Health (Dock Work) Convention, 1979 (No.152) and coronavirus (COVID-19) of 6 July 2020 ([www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/genericdocument/wcms\\_750255.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/genericdocument/wcms_750255.pdf)) was provided.

7 The meeting considered views supporting a shift towards a more restricted possibility to refer to force majeure in the context of COVID-19 and the justification for enhanced control measures based on the observations of forced labour and potential violations of seafarers' fundamental rights. In a similar vein, the meeting was informed about some concerns related to charter parties-related issues, which have also been addressed in the Secretary-General's press briefing set out in annex 2 and Circular Letter No.4204/Add.36/Rev.1. Reference was made to the International Convention for the Unification of Certain Rules Relating to Bills of Lading known as the Hague Rules (1924) and its amendment, the Hague-Visby Rules (1968), as being relevant to the detailed consideration of such matters.

## ILO Developments

8 While focusing on the work of ILO, the meeting acknowledged the importance and significance of the following relevant developments:

- .1 adoption on 8 December 2020 by the Governing Body of the International Labour Office of Resolution 340 (Rev.2) concerning maritime labour issues and the COVID-19 pandemic ([https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_760649.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_760649.pdf));
- .2 adoption on 12 December 2020 by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) at its 91st session of the General observation on matters arising from the application of the Maritime Labour Convention, 2006, as amended (MLC, 2006) during the COVID-19 pandemic ([https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/publication/wcms\\_764384.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_764384.pdf));
- .3 main elements of PSC with respect to the MLC, 2006, and referencing ILO port State control guidelines (e.g. Seafarer Employment Agreements (SEAs), limits on service on board, Maritime Occupational Health and Safety (MOSH), access to medical care ashore) ([https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/publication/wcms\\_101787.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_101787.pdf)) and ILO Information Notes (original version (April 2020) and revised version (July 2020)) ([https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/genericdocument/wcms\\_741024.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/genericdocument/wcms_741024.pdf)); and
- .4 updating of flag and port State control guidelines on the MLC, 2006, to take into account the 2014, 2016 and 2018 amendments to the Convention.

## PSC regimes developments

- 9 The meeting considered the recent decisions made by PSC regimes, such as:
- .1 adoption of Paris MoU PSCircular97 on *Temporary Guidance related to COVID-19 for PSC Authorities (Revision 5)*, as set out in annex 3;
  - .2 establishment of Paris MoU task force and Tokyo MoU extraordinary intersessional group on COVID-19; and
  - .3 the progressive increase in the number of inspections carried out.

## Harmonization of PSC activities and recommendations

10 While being informed that the Tokyo MoU might review the matter of the development of guidance in relation to the control of compliance with MLC, 2006, in the context of the COVID-19 pandemic, in particular, through the work of the above-mentioned intersessional group and the convening of its Committee meeting at the beginning of 2021, the meeting noted the intended harmonized use of the Paris MoU PSCircular97 on *Temporary Guidance related to COVID-19 for PSC Authorities (Revision 5)* by most PSC regimes.

11 The meeting shared preliminary views on steps which could be further considered by individual PSC regimes and globally with regard to evidences of non-compliance observed by PSCOs, including seaworthiness, and measures to strengthen the control of compliance to improve the situation of those seafarers who may be confronted with deteriorating working and living conditions in the context of the pandemic. In this context, the meeting recommended enhanced cooperation of all participating organizations with SCAT in order to solve all reported cases as swiftly and efficiently as possible.

12 Additional information was provided in order to raise awareness of critical situations based on the outcome of the World Maritime University (WMU) research: "A culture of adjustment, evaluating the implementation of the current maritime regulatory framework on rest and work hours" ([https://commons.wmu.se/lib\\_reports/66](https://commons.wmu.se/lib_reports/66)), With regard to the use of information displaying the fraudulent registration of ships, PSC regimes confirmed that due consideration was given to it for appropriate action to be taken.

13 All participants agreed to promote, as echoed and amplified by such a meeting, the value of the prevailing spirit of cooperation and, the importance of a better understanding of the issues being faced by all actors, and, in particular, PSC regimes. The objective of such a meeting remains the development of unified solutions, in the true spirit of our "voyage together", and in the context of this third meeting, the return to the fullest possible control of compliance with international standards, in particular, MLC, 2006 in the context of the pandemic.

14 Member States, intergovernmental organizations and non-governmental organizations in consultative status with the Organization are invited to bring the contents of this Circular Letter to the attention of all concerned.

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## ANNEX 1

18 December 2020  
Original: ENGLISH

### AGENDA

#### **Third video meeting\* for Port State Control (PSC) regimes on harmonized actions at the time of pandemic of Covid-19 Friday, 18 December 2020**

#### **Meeting commences at 11 a.m. GMT**

Opening of the meeting

- 1 Adoption of the agenda
- 2 Update on emergency response and measures to the pandemic of Covid-19 taken by the United Nations, IMO, ILO, Member States, PSC regimes and the industry
  - .1 UNGA resolutions (A/74/L.92, A/75/4, A/75/L.37) and status of the recognition of seafarers as "key workers"
  - .2 Outcome of relevant IMO meetings and other developments
    - .1 MSC (extraordinary sessions and MSC 102)
      - .1 resolution MSC.473(ES.2) on *Recommended action to facilitate ship crew change, access to medical care and seafarer travel during the Covid-19 pandemic*
      - .2 GISIS module on ports facilitating crew changes
    - .2 FAL 44
      - .1 amendments to the FAL Convention to ensure the facilitation of maritime traffic during a public health emergency of international concern
    - .3 LEG 107
      - .1 development of guidelines for port State and flag State authorities on how to deal with seafarer abandonment cases
      - .2 provision of information on MLC, 2006 insurance certificates into the PSC ship inspection report
      - .3 conduct of a Concentrated Inspection Campaign (CIC) on financial security regarding the 2014 MLC amendments

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\* Participation of representatives of nine PSC regimes, the ILO Secretariat, IACS, ICS, InterManager, and ITF

- .4 MEPC 75
- .5 status of circular letters issued at the request of IMO Member States
- .6 IMO Seafarer Crisis Action Team (SCAT)
- .3 Developments within the industry
  - .1 MSC.1/Circ.1636 on *Industry recommended framework of protocols for ensuring safe ship crew changes and travel during the Coronavirus (COVID-19) pandemic*
  - .2 extended validity of certificates and update on remote surveys and ILO information note on the Occupational Safety and Health (Dock Work) Convention, 1979 (No.152) and coronavirus (COVID-19)
  - .3 Marine Coronavirus Strategy Group
  - .4 Group on Coordinated strategy on crew changes
  - .5 charter parties-related issue
- 3 Status of the control of compliance with the Maritime Labour Convention, 2006 and other crew-related relevant provisions
  - .1 Recent developments within PSC regimes
    - .1 resumption of committee meetings
    - .2 developments in PSC regimes
      - .1 Paris MoU PSCircular97 on *Temporary Guidance related to Covid-19 for PSC Authorities (Revision 5)* (parts relevant to MLC) and task force
      - .2 Tokyo MoU guidance on COVID-19 and extraordinary intersessional group on COVID-19
      - .3 developments in other PSC regimes
    - .3 guidance which could be annexed to a circular-letter to be issued after the meeting
  - .2 ILO tools and actions
    - .1 ILO experiences (e.g. interventions, bilateral discussions with governments) - Resolution 240 (Rev.2) concerning maritime labour issues and the COVID-19 pandemic (adopted on 8 December 2020) - General observation on matters arising from the application of the Maritime Labour Convention, 2006, as amended (MLC, 2006) during the COVID-19 pandemic - Adopted by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) at its 91st session (Nov. - Dec. 2020)

- .2 main elements of PSC with respect to the MLC, 2006, and referencing ILO port State control guidelines (e.g. SEAs, limits on service on board, MOSH, access to medical care ashore) and ILO Information Notes (original version (April) and revised version (July)). Update on the revision of the ILO PSC guidelines
- .3 Updating of flag and port State control guidelines on the MLC, 2006
- .3 Awareness of critical situations: Outcome of WMU research "A culture of adjustment, evaluating the implementation of the current maritime regulatory framework on rest and work hours". PSC inspection on the ground of potential fraudulent registration
- 4 Discussion on future actions concerning PSC, MLC and COVID
  - .1 returning to full compliance
  - .2 identification of steps to be taken
    - .1 evidences of non-compliance with applicable standards which can be observed by PSCOs, including seaworthiness, and cooperation with flag Authorities
    - .2 consideration of measures to strengthen the control of compliance to improve the situation of those seafarers who may be confronted with deteriorating working and living conditions in the context of the pandemic
- 5 Consideration of the outcome of the third video meeting and follow up actions (e.g. circular letter, future meetings and adoption process)
- 6 Any other business and closing

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**ANNEX 2**

**PRESS BRIEFING**

**IMO Secretary-General denounces "no crew change" clauses**

Charterers' "no crew change" clauses aggravate the ongoing crew change crisis and further threaten safety of navigation, says IMO Secretary-General.



The full press briefing is available at:

<https://www.imo.org/en/MediaCentre/PressBriefings/pages/46-no-crew-change-clause-.aspx>

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**ANNEX 3**



# ***PSCircular 97***

**17 DECEMBER 2020**

## **TEMPORARY GUIDANCE RELATED TO COVID-19 FOR PORT STATE CONTROL AUTHORITIES (REV.5)**

### **Introduction**

- 1 MAB has considered and agreed that, noting the global impact of COVID-19, there was a 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. However, as the lock-down is being progressively lifted it is important that a common approach is adopted to resumption of inspection activities, not withstanding any possible national measures, and in view of the continued effects of the COVID-19 crisis, as a general principle the following guidelines should be applied on a case by case basis by the relevant port State control 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
  - ship certification issues and COVID-19
  - crew related issues and COVID-19
- 3 A summary of relevant publications can be found on a dedicated COVID-19 page of the Paris MoU website: <https://www.parismou.org/publications-category/covid-19>

### **Preventive measure to halt the spread of COVID-19**

- 4 PSCOs should be guided by the preventive measures adopted by their Maritime Administrations, including the use of appropriate personal protective equipment in order to protect themselves as well as the ship's crew. During the COVID-19 crisis MAB has noted that some Paris MoU member States continued with PSC inspections and that others have resumed or are planning to re-commence their inspections. During this period a number of P1 (and P2) ships may not have been inspected. As a result of this some Port States may decide to focus on P1 overriding priority inspections and P1 inspections with outstanding deficiencies.
- 5 Whether an inspection takes place remains the decision of the port State. A vessel can be considered self-isolating only if there are no ship-shore interfaces.

### **Ship Certification Issues and 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 the case where the owner and flag State have demonstrated to take that

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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 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 COVID-19. Further guidance regarding the extension of the interval of surveys and audits can be found in IMO Circular Letter No.4204/Add.19 – "Guidance for flag States regarding surveys and renewals of certificates during the COVID-19 pandemic".
- 8 Duration of statutory certificates  
Giving consideration that an exceptional extension of validity of certificates specific to 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 COVID-19. Further guidance regarding the extension of validity of certificates can be found in IMO Circular Letter No.4204/Add.19.
- 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 also applies to any vessel operating beyond any indicated grace period.
- 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 COVID-19, unless it is evident that the COVID-19 pandemic is used as an excuse to breach the Convention requirements.

#### **Crew related issues and COVID-19**

- 12 MLC 2006  
Following the outbreak of the pandemic, MAB 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. As several months have passed since the start of the pandemic, reports indicate almost 400,000 seafarers long overdue for repatriation and stranded on board ships around the world and crew changes are still difficult to carry out in a number of port States. Issues of fatigue and mental health of seafarers may have deteriorated to a point that they may endanger health and safety. Although local lockdowns in port States could still be considered necessary by national authorities in specific cases, with respect to MLC issues, specifically on overdue periods of service on board, the Paris MoU will work towards more stringent adherence to the fundamental requirements of MLC, 2006.
- 13 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 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

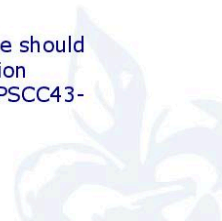
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there are clear grounds to believe that crew members are suffering from fatigue or otherwise not fit for duty, the port State should require appropriate corrective action and consider to inform the flag State.

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/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)

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. Even though many ship-owners do not notify their flag State of overdue crew, flag States remain responsible for enforcing compliance with the MLC. Port States are therefore urged, in applying the ILO's guidance, 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 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.

- 14 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 in THETIS. Any crewmember who has already spent more than the default 11 months on board should be prioritised for repatriation. A vessel should be treated in the normal manner where an SEA is expired.
- 15 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.
- 16 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.
- 17 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 e.g. 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](mailto: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**

- 18 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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