



## **INTERIM GUIDANCE RELATING TO UKRAINIAN SEAFARER REPATRIATION DUE TO THE REGIONAL CONFLICT**

### **Introduction**

1 The members of the Tokyo MOU have agreed that in noting the impact of the conflict in Ukraine it is important to adopt a common approach for implementing inspection activities in respect to the repatriation of Ukrainian seafarers. This is in addition to interim measures relating to COVID-19 circumstances (Circular letter 2021-1, 1 March 2021), as there is a need to apply flexibility and pragmatism on the issue of extending periods of service on board ships. As a general principle, requests would be considered on a case by case basis by the relevant port State.

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.

### **Statement by Marine Transport Workers Trade Union of Ukraine.**

3 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 conflict in that region. The MTWTU requested that Seafarers who had reached the maximum contract duration be permitted to remain onboard as long as possible until it is safe for the seafarers to return home<sup>1</sup>.

4 Where seafarers are willing to return home on the expiry of their contract the MTWTU request that the seafarer be provided tickets to safe countries in the region as well as the funds required to travel from that airport to Ukraine.

### **The need for flexibility**

5 Travel to the region has been made difficult due to the combination of the conflict in Ukraine and the COVID-19 pandemic. In addition, there is a foreseeable risk to the safety of the seafarer returning to a conflict zone. It is likely that some seafarers will request to remain onboard their ship rather than return home until such stage as the situation stabilises. 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 getting relief crew to their ships.

6 Payment of wages, including allotments, in accordance with MLC2006 may be difficult due to the 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.

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<sup>1</sup> Where a Seafarer request early repatriation this should be agreed with the ship owner/operator in accordance with Standard 2.5(b)(ii), in respect of termination of contract, and Standard 2.5(c) in respect of repatriation.



## Guidelines for port States

7 Noting the MTWTU have requested that flexibility be considered, where an extension of service is envisaged the port State should request the operator of the ship to confirm that the flag State has been advised of the planned extension and has acknowledged it.

8 When advising the port State of the need to extend periods on board the 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 respect of section 10 of Standard A5.1.3 of the MLC that to provide specific equivalent solutions to address the 2019-nCoV virus situation; and/or.
- b. Agreement of the 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; and/or.
- c. 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).

9 In considering the measures to mitigate the situation the port State should examine the following factors:

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

If the port State is satisfied and does not object to such proposals this should 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.