

Safety Seminar, August 2021

Marine Department (“MD”)

Participant’s questions and MD’s answers

Cargo Ship’s Safety

For more information regarding Cargo Ship’s Safety, please contact ss_css@mardep.gov.hk

Question 1

Regarding the non-PSC officers boarding case, should the port State inform the master regarding the boarding of non-PSC officers in advance?

MD: Please note the guidelines on IMO Resolution A.1138(31), Procedures for Port State Control. Regardless of the master being informed in advance, the port State has the authority to assign any persons to assist the PSC officers. As long as the PSC officers show their valid IDs, the master should not refuse any other persons accompanied with the PSC officers to assist the PSC inspection.

Question 2

If there is a version upgrade of loading software/ a redundant loading computer, is it required to be certified by the Administration?

MD: Recognised Organisation (“RO”) should be contacted to verify the necessity in the certification of the loading software/ loading computer.

Question 3

Is there any update on approval of electronic certificates by HK flag?

MD: The successful roll-out of electronic certificates will be reliant on many factors, including the compatibility of the local legislation. The relevant local legislation is under review to implement the electronic certificates and it will take some time to amend them.

Question 4

If we need remote shipboard inspection/ audit, what should we do?

MD: Under COVID-19 pandemic, remote audit is acceptable in lieu of physical audit if it meets all requirements in Part A of ISM Code 12 with support of the respective RO and prior approval from MD. Please refer to paragraph 13a of Special Arrangements by the Hong Kong Marine Department under COVID-19 Pandemic Situation.

(<https://www.mardep.gov.hk/en/news/COVID19.html>)

Question 5

For ships with Cargo Securing Manual (“CSM”) already approved by the previous flag after 29 May 2021, is it required to re-approved after joining HK flag?

MD: Yes, reapproval by MD is required. To facilitate speedy approval on CSM, electronic copy of CSM should be submitted to the RO for their review as early as possible when the ship is registered in HK. Dispensation could also be considered if necessary.

FSQC Audit's Arrangement

For more information regarding FSQC Audit's Arrangement, please contact fsqc@mardep.gov.hk

Question 6

Sometimes, FSQC Audits could not be arranged for ships selected due to COVID-19 pandemic. Would FSQC audits be rescheduled or cancelled?

MD:

There are different reasons for a ship being selected for FSQC Audit: due to PSC detention, her risk PSC performance and risk profile, her ISM Manager's performance, complaint of the ship received by MD, or by random selection. Other than selection by random, a FSQC Audit will NOT be cancelled under any circumstances. However, in certain unavoidable situations such as port restriction due to COVID, postponement of FSQC Audit at other convenient port may be accepted. For that MD will require the ship's itinerary for continuously monitoring until the FSQC Audit is carried out at an agreed port.

Question 7

What are the criteria of ship selection for FSQC audits in Australia?

MD: The selection of ships for FSQC Audit in Australia is primarily based on the risk profile of a ship taking into consideration of the following factors:

- The ship's PSC performance;
- The ISM Manager's PSC performance;
- The ship's age;
- Whether the ship has been issued with a warning letter by Australian Maritime Safety Authority ("AMSA"); and
- Whether a ship under the same ISM Manager has been issued with a warning letter by AMSA or has been banned from entering Australian port by AMSA.

Seafarer's Affairs

For more information regarding Seafarer's Affairs, please contact mmd@mdd@mardep.gov.hk

Question 8

Recently, some seafarers refuse to work on vessels, which trade in areas with severe COVID-19 pandemic.

What is the view of MD?

MD: Both the shipowner (employer) and seafarer (employee) are bound by the terms and conditions of the Seafarers Employment Agreement ("SEA") to which they have signed such that it would be a breach of the contract if the seafarer refuses to sail on the ship to a port of destination with severe COVID-19 pandemic, unless this condition has been included in the SEA to allow the discretion of the seafarer to sail to this kind of place. However, on grounds of humanitarian, the employer should endeavour to console the crew members who are reluctant to complete the voyage by providing them with confidence of protection from infection. Internal meetings held with the crew member revealing the provision of sufficient Anti-COVID 19 material; management plan for anti-COVID-19; anti-COVID 19 guidelines; prevention / monitoring measure for on board crew during the port call and after port call etc could alleviate the anxiety.

Question 9

Due to port restrictions under COVID-19 pandemic, some seafarers, who have been serving for more than 11 months, are unable to repatriate.

What should we do?

MD: The management company should arrange for the seafarer to sign an extension of Seafarers Employment Agreement ("SEA") should it be anticipated that the crew change could not be effected before the SEA is expired. At the same time, they should endeavor to facilitate crew change at every port of call and enter in documentary record such efforts having made for crew change maintaining well available for inspection by PSC officer.

Question 10

How are the wages settled for seafarer's quarantine period/ seafarers requesting leaves unreasonably without completing the SEA?

MD: The entitlement of wages for seafarer's quarantine period/ seafarers requesting leaves unreasonably without completing the SEA should be considered according to the terms and conditions of SEA.

Question 11

Can the maximum servicing period of a seafarer lengthen to 12 months in Australia?

MD: No. AMSA has issued a Marine Notice on 11 November 2020 confirmed that AMSA inspectors would verify compliance with Regulation 2.4 of the MLC, 2006 to ensure seafarers serve no longer than 11 months continuously on board a vessel. This would include verification that any service extensions do not result in seafarers serving on board for more than 11 months.