

Discussion (Q & A)

1. Are there any penalty to PSC(s) if an appeal against a detention confirmed that the detention was improper, and how to deal with unjustified deficiency and/or detentions?
 - a. PSCOs inspect and detain a ship according to their National regulations of the port State. There is no such penalty in the international conventions or regional agreement. E.g. if a ship detention case for review submitted to TMoU from the ships flag State or RO, a “Detention Review Panel” will be set up with 3 Authorities other than the flag State and the port State. If the Panel supports the flag State or RO, the port State will be informed and requested to reconsider its decision again. However, the findings of the Panel are not binding and the recommendation of the Panel could not be used for claiming a financial compensation.
 - b. To deal with unjustified deficiency and/or detentions, following items shall be addressed:
 - 1) Effective communication between master and PSCOs to avoid miss-understanding;
 - 2) Evidence to show that the ship comply with the relevant requirement; If applicable, obtain technical supports from the ship’s RO, company, and the HKMD as early as possible.
 - 3) Request the local PSC to review the case and/or use the official national procedure to appeal against a detention as early as possible.
 - 4) Approach RO and/or HKMD with detailed information and support document (communication record of above step 3 might be important to clarify the fact of the case).
 - 5) RO and/or MD may request port State to reconsider their decision of detention if there are evidence that the detention is unjustified.
 - 6) RO and/or MD may further request the MoU to review the detention case if applicable.
 - c. In 2018, three (3) detention cases were lifted, 2 cases in USCG while another one in Riyadh MoU. All these detention cases were appealed by the ship company to the PSC authorities directly. Normally, directly appeal from the ship company to the PSC office or authority might be most easy and effective method.

2. Difficult to comply with the rest hour requirement in some scenarios; whether 12 + 12 hours shift in port is acceptable?
 - a. Rest hour requirement as per STCW and MLC 2006 Conventions entered into force several years already. There is no room to relax the requirement now and it is a common item to be inspected by most PSCOs. All ships and companies must be conversant with the rest hour requirement and make proper arrangement to ensure the compliance.
 - b. To avoid noncompliance on the rest hour requirements, following item should be considered (please also refer to case study 4):
 1. PIC to assign the duty and daily work must conversant with the rest hour requirement.
 2. Plan all ship operation jobs well before the implementation for all officers and ratings. Any unplanned change shall cause re-plan the working schedule of all officers and ratings involved.
 3. Sharing working load. E.g. One deck or engineering officer shall be possible to demonstrate all PSC or other 3rd party inspection items for deck or engine department respectively; etc.
 4. Coordinate with all parties (internal and external) and optimize ship operation to meet relevant requirement, including rest hour requirement.
 5. Monitor the compliance of rest hour requirement; and
 6. Employ additional manpower if necessary.
 - c. Any ship might decide the ship's shipboard working arrangement provide that the rest hour requirement is complied with. For 12 + 12 shift arrangement in port, special attention shall be paid on the rest hours for 1st shift and last shift (or 1st shift change back to normal navigational watch keeping shift), and the 77 rest hours each 7 days. Such shipboard working arrangement should not be considered as an exceptional condition.
 - d. A Hong Kong ship had been detained just before departure due to seafarer on board had not sufficient rest for 1st sailing shift.
3. Working language for mixed crew members on board, whether "English or Chinese" or "English and Chinese" record in ship's

log-book is acceptable?

- a. Regulation 14.3 of SOLAS Chapter V requests that “a working language shall be established and recorded in the ship's log-book” and that “each seafarer shall be required to understand and, where appropriate, give orders and instructions and to report back in that language”. This language shall also be used for all documents required to be written in working language (such as, Garbage Management Plan, Ballast Water Management Plan, STS etc.).
 - b. Attention shall be paid that Seafarer on bridge shall be capable to English as the working language for bridge-to bridge and bridge-to-shore safety communications as well as for communications on board between the pilot and bridge watchkeeping personnel.
 - c. In addition to the SOLAS requirements on working language, in accordance with Section 6 of the ISM Code, Companies are also required to “ensure that the ship's personnel are able to communicate effectively in the execution of their duties related to the SMS”.
 - d. Based on the above, though it is acceptable to use bilingual documents/instructions on board to facilitate smooth operations, using different working languages respectively by different nationalities on board the same ship is not accepted.
4. Whether equal remuneration for work of equal value for all seafarers employed on the same ship must be complied with?

MLC Guideline B2.2.2 introduces the principle of equal remuneration for work of equal value. Although it is not a mandatory requirement in the relevant Hong Kong legislation (i.e. Cap.478AF), with a view to protecting seafarers' interests, maintaining ships' quality standard, and ensuring smooth shipboard operations, the Hong Kong Marine Department strongly recommends and encourages to apply the said principle on board all Hong Kong registered ships for all crew members.