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THÔNG BÁO KỸ THUẬT TÀU BIỂN
TECHNICAL INFORMATION ON SEA-GOING SHIPS

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Nội dung: Hướng dẫn ngày 09/4/2020 của Văn phòng Vận tải biển quốc tế (ICS) “Virus corona (COVID-19): Quản lý giấy chứng nhận của tàu và thuyền viên trong đại dịch”.

Kính gửi: Các chủ tàu/ công ty quản lý tàu biển
Các đơn vị đăng kiểm tàu biển

Ngày 09/4/2020, Văn phòng Vận tải biển quốc tế (ICS) đã ban hành hướng dẫn “Virus corona (COVID-19): Quản lý giấy chứng nhận của tàu và thuyền viên trong đại dịch” (tài liệu đính kèm).

Hướng dẫn này cung cấp thông tin cho các chủ tàu và người khai thác tàu về việc quản lý các giấy chứng nhận của tàu và thuyền viên theo các quy định về chứng nhận của các điều ước quốc tế, chẳng hạn như các văn kiện của Tổ chức Hàng hải quốc tế (IMO) và Tổ chức Lao động quốc tế (ILO), trong bối cảnh đại dịch COVID-19.

Đại dịch COVID-19 đã có tác động to lớn đến thương mại hàng hải toàn cầu, với các hạn chế nhằm ngăn chặn dịch bệnh đã tạo ra những thách thức mới trong việc duy trì các hoạt động của tàu và cảng. Điều quan trọng là các hoạt động này cần được tiếp tục trong cuộc khủng hoảng để đảm bảo các hàng hóa và sản phẩm thiết yếu như năng lượng, thực phẩm, vật tư y tế, có thể được vận chuyển cho thế giới.

Các tàu được yêu cầu tuân thủ các quy định quốc tế, chẳng hạn như các văn kiện của IMO và ILO, được ban hành để đảm bảo tàu hoạt động tàu an toàn, an ninh, bảo đảm điều kiện lao động hàng hải cho thuyền viên và thân thiện với môi trường. Nhiều văn kiện của IMO và ILO bao gồm các điều khoản về chứng nhận, theo đó giấy chứng nhận được cấp cho tàu và thuyền viên để chứng minh sự tuân thủ các quy định cụ thể. Ngoài các giấy chứng nhận theo luật định này, Công ước Quốc tế về an toàn sinh mạng con người trên biển (SOLAS) của IMO cũng yêu cầu các tàu được phân cấp bởi tổ chức phân cấp tàu được quốc gia tàu mang cờ quốc tịch công nhận, trừ khi tuân thủ các tiêu chuẩn về đóng tàu, động lực và điện tàu tương đương của quốc gia.

Các giấy chứng nhận rất quan trọng để tàu tiếp tục hoạt động vì đây là bằng chứng về việc tuân thủ các tiêu chuẩn quốc tế có liên quan, và các giấy chứng nhận này thường được xác

nhận tại các đợt kiểm tra, đánh giá khác nhau. Việc hết hạn giấy chứng nhận của tàu và thuyền viên có thể dẫn đến việc tàu đó bị xem là có khiếm khuyết, hoặc thậm chí là tàu bị lưu giữ và không thể tiếp tục hoạt động. Đây cũng là điều kiện của Bảo hiểm P&I, là tàu vẫn tuân thủ các yêu cầu theo luật định và phân cấp hiện hành, được thể hiện bằng cách duy trì tính hợp lệ của các giấy chứng nhận.

Một số giấy chứng nhận yêu cầu các cuộc kiểm tra và đánh giá để được cấp mới, dựa trên các điều kiện quan sát được trên tàu; trong khi các giấy chứng nhận khác có thể được xác nhận bằng cách gửi văn bản đề nghị kèm theo các tài liệu hoặc bằng chứng hỗ trợ. Trong thời gian bình thường, việc duy trì giấy chứng nhận của tàu và thuyền viên hợp lệ có thể là thách thức, nhưng giờ đây việc này trở nên phức tạp, khó khăn hơn rất nhiều đối với các chủ tàu và người khai thác tàu do đại dịch COVID-19.

Chủ tàu và người khác tàu được khuyến nghị tham khảo hướng dẫn mới ban hành của ICS để quản lý, bảo đảm duy trì tính hiệu lực của các giấy chứng nhận của tàu và thuyền viên trong hoàn cảnh khủng hoảng hiện nay.

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- Như trên;
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International
Chamber of Shipping

Shaping the Future of Shipping

Coronavirus (COVID-19)

Managing Ship and Seafarer Certificates during the Pandemic



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The International Chamber of Shipping (ICS) is the global trade association representing national shipowners' associations from Asia, the Americas and Europe and more than 80% of the world merchant fleet.

Established in 1921, ICS is concerned with all aspects of maritime affairs particularly maritime safety, environmental protection, maritime law and employment affairs.

ICS enjoys consultative status with the UN International Maritime Organization (IMO).



Coronavirus (COVID-19)

Managing Ship and Seafarer Certificates during the Pandemic



Purpose and Scope

This guidance provides information for shipowners and operators on managing ship and seafarer certificates during the Coronavirus (COVID-19) pandemic. It covers ship and seafarer certificates required by the certification provisions of international regulations, such as those of International Maritime Organization (IMO) and International Labour Organization (ILO) instruments, and highlights the current unique compliance issues and considerations relating to ship and seafarer certificates.

The Coronavirus (COVID-19) pandemic has had significant impacts on the global maritime trade, with restrictions designed to address the outbreak posing new challenges to maintaining normal ship and port operations. It is vital that these operations continue during the crisis to ensure that essential goods and commodities, such as energy, food and medical supplies, can be carried to the world.

Ships are required to comply with international regulations, such as those established by IMO and ILO, which are developed to ensure safe, secure and environmentally sound ship operations. Many IMO and ILO instruments contain requirements for certification, where certificates are issued to ships and to seafarers to demonstrate compliance with specific requirements. In addition to these statutory certificates, the SOLAS Convention also requires that ships are classed by a classification society which is recognised by the Administration (flag State) – unless complying with equivalent structural, mechanical and electrical standards of the Administration.

Certificates are important for continuing ship operations because they serve as prima facie evidence of compliance with the relevant international standards, and they are regularly verified during various types of surveys, audits and inspections. The expiration of ship and seafarer certificates can result in a ship being given a deficiency or even detained and unable to continue operating. It is also a condition of Protection and Indemnity (P&I) cover that ships remain compliant with applicable statutory and class requirements, demonstrated by maintaining the validity of certificates.

Some certificates require surveys and audits to be renewed, based on observed conditions on board, whilst others can be revalidated by submitting an application accompanied by supporting documents or evidence. In normal times, maintaining valid ship and seafarer certificates and keeping them in order can be a challenge, but it has now become markedly more complicated and difficult for shipowners and operators due to the COVID-19 pandemic.



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1 Ship Certificates

1.1 Introduction

Ship certificates are documents issued by an Administration, or a Recognised Organisation (RO) authorised to issue them on its behalf, and by a classification society in the case of class requirements. These certificates are used to show a ship's compliance with the requirements of IMO, ILO and class requirements. There are a considerable number of ship certificates and other documents being carried on board ships to demonstrate compliance with a wide range of international regulations, national regulations and class rules and regulations. Ship certificates must be kept valid in order to allow it to be able to trade.

The latest version of the List of certificates and documents required to be carried on board ships (FAL.2/Circ.131-MEPC.1/Circ.873-MSC.1/Circ.1586-LEG.2/Circ.3) sets out the certificates and documents required under IMO instruments.

Administrations and classification societies require that surveys are periodically undertaken to verify that the actual condition of the ship, crew and equipment are in conformity with its certificates. Ship certificates are issued or renewed following the successful completion of these surveys and audits at the requisite intervals. Ship certificates are also checked to see if they are in order and valid during Port State Control (PSC) inspections of ships in foreign ports.

1.2 Impacts of the COVID-19 Pandemic on Ship Certificates

The COVID-19 pandemic has posed a serious challenge for ship certificates and all the associated surveys and audits, with the result being that ships are in a position where their certificates are expiring because of difficulties arranging the necessary surveys, audits or drydocks in order to renew their certificates.

The following are some of ways the COVID-19 pandemic has resulted in the challenge of expiring ship certificates:

- Surveyors have faced difficulties getting access to ships to carry out surveys due to inter alia travel restrictions, port restrictions and quarantines;
- Administrations and ROs have suspended survey activities meaning that surveys necessary for the renewals of ship certificates cannot be completed;
- Administrations and ROs have been unable to renew or issue certificates to ships in a timely manner due to reductions in their own capacity or activities caused by effects the COVID-19 pandemic;
- Cancellations or postponements of scheduled periods in drydock or shipyards to perform surveys or mandatory equipment installations by shipyards and equipment manufacturers;
- Difficulties in getting certificates to ships; and
- Capacity constraints in those areas where shipyards continue to work.

The IMO has issued Circular Letter No.4204/Add.1 on COVID-19 – Implementation and enforcement of relevant IMO instruments (19 February 2020). It states:

“Flag State authorities, port State authorities and control regimes, companies and shipmasters should cooperate, in the current context of the outbreak, to ensure that, where appropriate, passengers can be embarked and disembarked, cargo operations can occur, ships can enter and depart shipyards for repair and survey, stores and supplies can be loaded, certificates can be issued and crews can be exchanged.”

In Circular Letter No.4204/Add.1, the IMO is calling for understanding and close cooperation among all Member States to overcome challenges related to the implementation and enforcement of the relevant IMO instruments.



1.3 Approaches by Administrations

Administrations have responded positively to the call of IMO Circular Letter No.4204/Add.1 and the national circulars/advisories issued since by many Administrations demonstrates that they are looking to apply a reasonable and pragmatic approach, including agreeing to extend the period of validity for ship certificates where it is not possible for the necessary surveys and audits to take place. Information from several of the largest PSC Memoranda of Understanding (MoUs) and authorities indicates that Administrations intend to apply the same reasonable and pragmatic approach for at least three months during PSC inspections of foreign ships calling at their ports.

Many Administrations have now issued national circulars/advisories that are consistent with the approach inferred in IMO Circular Letter No.4204/Add.1. The following are some of the main elements of the national circulars/advisories issued to date on the subject of ship certificates and associated surveys:

- Statement that the validity of certificates is extended for a certain period of time;
- Statement that surveys are postponed and shore-based activities related to ship certificates are suspended;
- Statement on whether the extension of validity of certificates will be on a case-by-case basis or a 'blanket' approach to ship certificates;
- Statement on whether the extension of validity of certificates applies onto those issued by the Administration or also to those certificates issued by ROs on its behalf;
- Specification of any documentation that will be issued to the ship to evidence the extension given to its certificates;
- Specification of a deadline where certificates expiring after which are not within the scope of the extension;
- Specification of a date when normal statutory survey and certification activities will resume or the suspension of activities will be removed;
- Specification of the alternative or short-term certificates or documents that can be issued to the ship (e.g. electronic short-term certificates);
- Specification of the procedures required to be followed to obtain extensions to the certificates;
- Specification of the supporting document(s) required to evidence that the necessary survey(s) could not take place (e.g. letter from the port authority about the placement of quarantine on the ship);
- Information on temporary or alternative arrangements available where the attendance of a surveyor is not possible (e.g. remote inspections or self-inspection protocols);
- Information on the legal basis or justification relevant to the extension of ship certificates being provided (e.g. provisions from SOLAS and MARPOL); and
- Statement that the validity of any certificate can be verified by contacting the flag State.



SOLAS regulation I/14(e)

“(e) If a ship at the time when a certificate expires is not in a port in which it is to be surveyed, the Administration may extend the period of validity of the certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so. No certificate shall be extended for a period longer than three months, and a ship to which an extension is granted shall not, on its arrival in the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port without having a new certificate.”

MARPOL Annex I, regulation 10.5

“5 If a ship at the time when a certificate expires is not in a port in which it is to be surveyed, the Administration may extend the period of validity of the certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so. No certificate shall be extended for a period longer than 3 months, and a ship to which an extension is granted shall not, on its arrival in the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port without having a new certificate. When the renewal survey is completed, the new certificate shall be valid to a date not exceeding 5 years from the date of expiry of the existing certificate before the extension was granted.”

Difficulties with the statutory surveys and certificates means that the same difficulties are likely to arise with regards to classification society surveys too. As with Administrations and PSC authorities, classification societies have responded positively to the calls of the IMO and are looking to apply a reasonable and pragmatic approach, including agreeing to extend the period of validity for ship certificates where it is not possible to complete the necessary surveys and audits.

1.4 Guidance

Shipowners and operators are advised that only the Administration can make decisions about the approach they will pursue in cases where necessary surveys and audits cannot take place in time and result in the expiration of ship certificates. Similarly, in the case of class surveys, only the classification society for the ship can make decisions about the approach they will pursue in cases where necessary surveys and audits cannot take place in time. However, it is fortunate that Administrations, as well as PSC authorities, appear to have generally agreed that ship certificates may be extended for a period of three months.

In some cases, both Administrations and PSC authorities have suspended surveys and inspections for defined periods (e.g. until the end of June 2020) in recognition of the unprecedented problems facing Administrations and the industry. In other cases, Administrations are pursuing the use of remote inspection techniques to complete surveys and audits to the extent possible.

ICS has not received any reports to date of any instances of a lack of pragmatism from classification societies when it comes to arrangements for class surveys and it appears that classification societies are making every effort to support the industry in this difficult time. Classification societies are also making use of remote inspection techniques to undertake some surveys.

In order to successfully manage the validity of ship certificates during the COVID-19 pandemic, ICS recommends that shipowners and operators should:

- Contact their Administration(s), or ROs providing statutory services on behalf of the Administration(s), to confirm their approach to the extension of ship certificates in light of difficulties undergoing surveys and audits during the COVID-19 pandemic;
- Contact their classification society (or societies) to confirm their approach to the extension of class certificates in light of difficulties undergoing surveys and audits during the COVID-19 pandemic;



- Identify all the certificates and documents on board ships which may be reasonably expected to expire during the exceptional circumstances of the COVID-19 pandemic and examine the approaches advised by the Administrations and classification societies which issued these certificates and ensure that any necessary procedures are followed;
- Document all actions and correspondences performed to endeavour to arrange all necessary surveys and audits required for the normal renewal of ship certificates;
- Advise the Administration or RO as early as possible of all certificates that are due to expire where difficulties are anticipated in terms of having the surveys and maintaining the validity of the certificates;
- Prepare evidence that the necessary surveys and audits had been planned and arranged sufficiently in advance to show that all possible efforts had been taken to ensure that the surveys and audits could take place in a timely manner to avoid the expiration of any ship certificates;
- Keep records to demonstrate that manufacturers and suppliers cannot deliver equipment, shipyards cannot perform installations or work, technical experts cannot get on board ships to install and commission equipment to comply with IMO instruments requiring new equipment (e.g. ballast water management systems), as originally scheduled;
- Ensure that their ships remain operated and maintained in conformity with its statutory and class certificates, even though expired, during the course of the COVID-19 pandemic;
- Develop plans for normalising ship certification as circumstances and restrictions are eased, which may be a condition of extending certificates and/or of receiving reasonable pragmatism during PSC inspections;
- Identify the relevant national circular/advisories on the subject of ship certificates and associated surveys issued by their Administration(s), which will set out the approach which will be taken by its RO (which may be different from the approach taken by the same RO where authorised by a different Administration);
- Ensure that the relevant circular from the Administration is carried on board ships in order to be able to demonstrate to PSC or any relevant third parties that the approach taken and situation regarding ship certificates on board is considered acceptable to the flag State; and
- Explore whether remote inspection techniques are a viable alternative to traditional surveys and audits.

There are some differences in approach being taken by Administrations. Some of the areas where there are differences, which will need to be understood and managed by shipowners and operators, are:

- Extent of the action required by the shipowner or operator to obtain the extension – some Administrations have established specific procedures which are required to be followed to obtain extensions to certificates, whereas other Administrations do not require any action of the shipowner or operator;
- Limits placed on the extension – some Administrations have indicated that survey and certification activities are suspended until a certain date, meaning that any extensions that run into the period after that date might be more difficult to agree or accept; and
- Documentation – some Administrations have indicated that some form of temporary or short-term certificates will be issued to ships, whereas other Administrations indicate that relevant national circular/advisory and the expired certificates together provide the extension of the validity of those certificates.

The following are some potential issues that could be foreseen for shipowners and operators with the approaches being taken by Administrations:

- Some confusion and misunderstandings might be expected due to differences between the approaches being taken by Administrations, despite there being some consistency with regards to the three-month extension period;
- If the three-month extension period ends up still being insufficient time to complete the necessary surveys and audits due to the progression of the COVID-19 pandemic, there currently is a lack of clarity about what would then be the approach of Administrations;



- There is considerable discussion about the possibilities and solutions provided by the use of remote surveys and audits, however some of these cannot be carried out remotely and it is yet to be seen whether the increasing use of remote survey and audit techniques are sufficiently advanced and available to meet and satisfy demand;
- There could be difficulties if PSC authorities decide not to maintain a reasonable and pragmatic approach to inspections after the three months, as some PSC MoUs have publicly indicated that their pragmatism will not extend to certificates beyond three-month extensions to their validity; and
- There is a lack of clarity about the degree of flexibility that will be shown in relation to ship certificates as the crisis eases, when continuing flexibility will be important because the backlog of work needing shipyard attendance and demands on manufacturers and suppliers means that the industry may require further time to recover from the interruption to services and arrange the necessary surveys and audits after restrictions are lifted.

What happens if the three-month extension is insufficient due to continued restrictions resulting from the COVID-19 pandemic?

Some Administrations have indicated that, if necessary, they are prepared to extend certificates beyond the initial three-month period. However, because of the legal position with respect to their obligations under the IMO instruments or national laws and regulations, ICS understands that they are not currently able to issue guidance that includes statements to that effect. In such cases, it is probable that the shipowner will be required to provide information on why it has not been possible to complete the necessary surveys and audits, evidence demonstrating that the ship remains compliant with applicable requirements and a plan for normalising the ship certification as the pandemic eases. Any such extensions will be at the discretion of the Administration. In all cases, shipowners should communicate with their Administration and classification society as soon as possible when it is identified that a further extension might be needed for their ships.

Looking ahead to this potential issue, ICS is liaising with the International Association of Classification Societies (IACS) on the matter. If certificates are further extended after the initial three months then there will understandably be consideration of how the continuing safety of ships will be assured, as there are good reasons why ships are subject to regular surveys and audits. In due course, it would be helpful for Administrations to provide shipowners and operators with guidance on:

- What documentation will be required when considering further extensions;
- What measures will be necessary to provide assurance that standards of safety and environmental protection for the period of further extensions;
- What form further extensions might take (e.g. issuance of short-term certificates); and
- What requirements would there be for progressing towards normalising certification.

The approach of the PSC MoUs and authorities regarding the extension of certificates beyond three months will be crucial because, without their cooperation, the use and acceptability of further extended certificates could be a significant challenge.

To date, ICS has been advised of very few problems faced by shipowners and operators with regards to satisfactorily resolving certificate, survey and audit challenges with Administrations and their ROs. Similarly, ICS has not received any reports of issues during PSC inspections, suggesting that significant efforts are being made by all concerned to do what is necessary to facilitate vital ship operations during the COVID-19 pandemic.



Whilst many Administrations have already issued national circulars/advisories, ICS is aware that there remain some that have not yet provided any guidance and it should be noted that others may decide to re-issue their national circulars/advisories in light of experience or as a result of having seen the planned approaches of other Administrations. ICS considers that Administrations should be encouraged to consider including the following in any guidance on the extension of ship certificates during the COVID-19 pandemic:

- Provide a clear statement that the validity of certificates issued under its authority are extended for a certain period of time as a result of the COVID-19 pandemic;
- Specify no deadline that limits the extension given to certificates, other than that which is defined by the length of the extension period given and the existing expiry date of the certificate;
- Specify a realistic period of extension in months, with three being the minimum to be given considering the current outlook for the COVID-19 pandemic;
- Specify the procedures required to be followed to obtain extensions to certificates. Ideally these should involve no form of application as this might be an additional and unnecessary burden at this time and processing these might not be sustainable for the Administration (or their ROs) throughout the course of the COVID-19 pandemic;
- If supporting documents are required to obtain the extension, provide an exhaustive list of the type and nature of such documents (e.g. documentation that evidence that the surveys were planned but could not take place (e.g. letter from port authority about the placement of quarantine on the ship, letter from the surveyor from the flag State or RO stating that the survey needs to be postponed, etc));
- Specify the documents that ships should carry to evidence that its certificates have had their validity extended to ensure that, for example, PSC or other third parties interested in ship certificates do not ask for documents that cannot be provided or documents that the flag State does not consider are necessary to evidence that an extension was given to the validity of the certificates;
- Provide a clear statement that the validity of certificates applies to both those issued by the Administration and those issued by ROs on its behalf, as it is the Administration that authorises the RO;
- Require as little action as possible by the shipowner or operator to obtain the extension, other than to continue to ensure the ship, its crew and its equipment continue to correspond with the requirements for the certificates;
- Specify a process where the national circular/advisory provides the extension and can be shown to PSC or other third parties as prima facie evidence of the extension, and no further documents need to be sent or exchanged with the Administration;
- Provide information on acceptable temporary or alternative arrangements available where the attendance of a surveyor is not possible, such as remote surveys and audits, or even self-inspection protocols; and
- Provide assurances that the situation will be assessed on a regular basis to see if any further extensions may be necessary.



What are the implications of the COVID-19 pandemic on the installation and commissioning of Ballast Water Management Systems (BWMS)?

Shipowners and operators are currently making significant investments in purchasing the equipment and planning installation on board and commissioning of BWMS, requiring extensive planning and long lead times in or to comply with the Ballast Water Management Convention. Prior to the COVID-19 pandemic, the industry was already facing a significant challenge related to the timely installation and commissioning of BWMS and so shipowners and operators are understandably concerned with the implications of delays to installations and commissioning as a result of the COVID-19 pandemic.

ICS considers that Administrations should recognise the unique compliance challenge posed by the COVID-19 pandemic in relation to the Ballast Water Management Convention. Administrations should consider dealing with this as a contingency measure situation when a BWMS fails and require ships to continue doing ballast water exchange complying with D-1 standard until the BWMS can be fitted and commissioned. Some Administrations have indicated that this will be their position, however shipowners and operators should contact their Administrations to seek clarification for cases where the installation and commissioning of BWMS may be delayed beyond the relevant deadline for the ship.

What are the potential implications of the expiration of ship certificates during the COVID-19 pandemic on P&I cover?

Conditions of P&I cover include inter alia the classification and certification of a ship, which means that a ship must comply with all the rules, recommendations and requirements of the classification society, comply with all statutory requirements of its flag State, and at all times maintain or procure the validity of its certificates. As such, where a ship's flag State and classification society have agreed to extend the validity of certificates, then those certificates should be accepted as valid by all concerned and the ship is compliant with the conditions of cover of its P&I Club.

The IMO international conventions on liability and compensation (Civil Liability Convention for Oil Pollution Damage 1992, Bunkers Convention 2001, Protocol of 2002 to the Athens Convention 1974, Nairobi Convention on Removal of Wrecks, 2007) also require the shipowner to have in place financial security (which is usually in the form of the shipowner's P&I insurance) to ensure that third party claims for compensation under these conventions are paid. The shipowner is required to obtain a certificate from a state party to the relevant convention verifying that the requisite insurance is in place and that it is valid. The certificate of insurance is subject to inspection by PSC. In order to ensure the continuing validity of the P&I insurance and, in turn, the state certificate of insurance, the shipowner must ensure that the ship remains in compliance with flag and class requirements and conditions.

Shipowners should ensure that their P&I Clubs are informed as a matter of prudence about any specific issues with ship certificates. Following any guidance of the flag State and classification society should ensure that the P&I cover of a ship is unaffected during the COVID-19 pandemic.



What are the potential implications of the expiration of ship certificates during the COVID-19 pandemic on charterparties?

Most standard forms of charterparties (both time and voyage charterparties) will contain obligations on the shipowner to deliver and to maintain the ship during the charterparty period of service or voyage, in compliance with all applicable regulatory requirements, ready to trade, and with all necessary certificates in order. A failure to deliver or maintain the ship in this condition may allow the charterers to reject the ship upon delivery or, if the obligation is breached during the charter service, this could entitle the charterer to seek to terminate the charterparty and/or claim compensation from the shipowner for any losses suffered in consequence. These claims could include compensation for the consequences of any delay (e.g. if the ship is delayed due to detention by PSC). In the case of a time charterparty, the charterers may place the ship off-hire and, in addition, claim other economic losses such as missed future employment anticipated under the charter service. Under a voyage charterparty, the charterers may claim financial losses if the ship is unable to proceed on the contractual voyage or if the cargo cannot be loaded or unloaded. Charterparties may also contain obligations for the ship to be entered for P&I and Hull and Machinery (H&M) insurance, and these insurances may be prejudiced if the ship is in breach of the conditions of the insurance policy concerning compliance with statutory and class requirements, including survey and certification. Therefore, shipowners should document and take all actions necessary to carefully manage their ship certificates during the COVID-19 pandemic.

There are also some future actions related to ship certificates and associated surveys and audits, which shipowners and operators may wish to begin to consider once they have dealt with the immediate need to take any actions to ensure that the validity of existing ship certificates on board are extended. These include:

- Develop a plan to ensure their ship certificates can be brought into order and renewed as soon as reasonably practicable after the COVID-19 pandemic; and
- Develop a plan to ensure that an anticipated concentration of surveys or dry-dockings after the COVID-19 pandemic are organised in a manner that mitigates significant impacts on ship operations and trading at that time.



2 Seafarer Certificates

2.1 Introduction

Seafarer certificates are those certificates issued to Masters, officers and ratings who, to the satisfaction of an Administration, meet the requirements for service, age, medical fitness, training, qualification and examinations in accordance with the appropriate provisions of the STCW Convention.

A certificate issued in accordance with the STCW Convention is a document issued by an Administration (or issued under its authority) authorising the holder of the certificate to serve in the capacity or perform the function(s) stated on the certificate.

There are four types of seafarer certificates described in the STCW Convention:

- Certificates of Competency (CoCs);
- Certificates of Proficiency (CoPs);
- Documentary evidence; and
- Medical certificates.

Some seafarer certificates required revalidation (or similar) at intervals not exceeding five years (two years in the case of most medical certificates), while other certificates do not have any specific expiry date:

- Seafarers holding CoCs are required, at intervals not exceeding five years, to revalidate their certificates by demonstrating continued professional competence and meeting the applicable standards of medical fitness; and
- Seafarers holding certain CoPs and documentary evidence are also required, at intervals not exceeding five years, to revalidate their certificates or undertake appropriate refresher training or be required to provide evidence of having achieved the required standard of competence within the previous five years, as applicable.

Medical certificates

Seafarers are required to hold a valid medical certificate while serving at sea. Medical certificates must be issued by an approved medical practitioner for seafarer medical examinations and remain valid for a maximum period of two years unless the seafarer is under the age of 18, in which case the maximum period of validity is one year.

The possibility that medical certificates might expire during the course of a voyage is already envisaged and addressed by provisions in the STCW Convention:*

“If the period of validity of a medical certificate expires in the course of a voyage, then the medical certificate shall continue in force until the next port of call where a medical practitioner recognized by the Party is available, provided that the period shall not exceed three months.”
(STCW regulation I/9.6).

“In urgent cases the Administration may permit a seafarer to work without a valid medical certificate until the next port of call where a medical practitioner recognized by the Party is available, provided that: (1) the period of such permission does not exceed three months; and (2) the seafarer concerned is in possession of an expired medical certificate of recent date.” (STCW regulation I/9.7)

*Similar provisions exist in Standard A1.2 of the Maritime Labour Convention, 2006, as amended.



Seafarers serving on ships flying the flag of a State that is not the same as the Administration who issued their original certificate are required to hold an endorsement attesting to the recognition of a certificate, commonly known as a flag State endorsement. These are required for all CoCs and only specific CoPs (for training for oil, chemical or liquefied gas tanker cargo operations held by Masters and officers) and can only be issued after ensuring the authenticity and validity of the original certificate.

Flag State endorsements expire as soon as the original certificate being endorsed expires or is withdrawn, suspended or cancelled by the party which issued it and, in any case, not more than five years after their date of issue.

Further information on the different certificates described in the STCW Convention can be found summarised in Table B-I/2 of the STCW Code.

2.2 Impacts of the COVID-19 Pandemic on Seafarer Certificates

The COVID-19 pandemic has posed a unique challenge for seafarer certificates, specifically it has resulted in situations where seafarer certificates, including medical certificates, are expiring while seafarers are still on board ships or at home waiting to join their next ship, through no fault of their own due to circumstances that have arisen due to the COVID-19 pandemic.

The following are some of the ways the COVID-19 pandemic has posed a challenge for the maintenance of the validity of seafarer certificates:

- Extension of service periods on board ships have prevented seafarers from submitting applications for the revalidation of their certificates;
- Extension of service periods on board ships have prevented seafarers from attending and completing refresher training or other courses required to revalidate their certificates;
- Extension of seagoing service periods have prevented seafarers from attending the medical examinations required for seafarers to revalidate their medical certificates;
- Movement and travel restrictions have prevented seafarers from attending and completing refresher training or other courses required to revalidate their certificates;
- Movement and travel restrictions have prevented seafarers from attending the medical examinations required to revalidate their medical certificates;
- Closures of maritime training institutions have prevented seafarers from attending and completing refresher training or other courses required to revalidate their certificates;
- Difficulties processing applications due to reduced hours, backlogs or closures of offices of authorities responsible for certificates have had impacts on the revalidation of certificates; and
- Medical professionals and resources in many countries have been re-deployed to combat the public health crisis caused by the outbreak of COVID-19 meaning there is a lack of availability of medical practitioners to conduct seafarer medical examinations.

The problem faced by seafarers, and the shipowners and operators that employ them, is that there are no actions or measures that could be unilaterally taken to address the ways the COVID-19 pandemic is posing a challenge for seafarer certificates.

As a result, both Administrations responsible for the original certificates and those that issue flag State endorsements must determine how to approach the expiration and validity of the certificates and advise seafarers and shipowners and operators accordingly.



On 17 March 2020, the IMO issued Circular Letter No.4204/Add.5 on Coronavirus (COVID-19) – Guidance relating to the certification of seafarers, which was subsequently revised by Circular Letter No.4204/Add.5/Rev.1 (2 April 2020). It states:

“Issuing Administrations are encouraged to take a pragmatic and practical approach with regard to the extension of certificates, including medical certificates, and endorsements, as strictly necessary, in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended; and to notify ships, seafarers and relevant Administrations accordingly.”

ICS fully expects Administrations to use IMO Circular Letter No.4204/Add.5(Rev.1) as a basis for recognising the unique challenges that the COVID-19 pandemic poses for seafarer certificates, and provide guidance of seafarer certificates issued or recognised by their Administration in the form of a clear and widely circulated national circular/advisory.

2.3 Approaches by Administrations

Based on the national circulars/advisories issued to date, Administrations appear to have responded positively to the call of IMO Circular Letter No.4204/Add.5(Rev.1):

- Administrations that issue the original certificates have been pragmatic and provided an extension of the validity of seafarer certificates for a certain length of time (often three months), albeit there are some variations as to the length of the extensions given and requirements (if any) specified for obtaining the extensions; and
- Administrations that issue flag State endorsements to certificates originally issued by other Administrations have also demonstrated pragmatism and intend to recognise the extensions given by the issuing Administrations, albeit there are some variations as to how this is to be arranged.

The following are some of the main elements identified in the national circulars/advisories issued by Administrations that issue the original certificates to seafarers:

- Statement that the validity of certificates are to be considered and treated as extended;
- Specification of the length of the extension (i.e. either for a certain number of months or until a specific future date);
- Specification of other special requirements or limits on the extension (e.g. until a seafarer with an expired certificate signs off the ship);
- Specification of a deadline where certificates expiring after which are not within the scope of the extension being given;
- Specification of a deadline beyond which the validity period cannot be extended, regardless of the total length of the extension given;
- Specification of a start date to ensure that any certificates that expired prior to the commencement of the COVID-19 pandemic do not benefit from the extension since they should not have been permitted to expire;
- Specification of the action(s) a seafarer (or the shipowner or operator on their behalf) must take to obtain the extension;
- Specification of the action(s) that must be taken to record the extension if no new documentation is to be issued to the seafarer (e.g. record in the ship’s logbook);
- Statement that any documentation issued to confirm an extension is equally valid in electronic form or hard copy form; and
- Information on changes to application procedures and processing times of normal applications for revalidation of certificates submitted during the COVID-19 pandemic.



The following are some of the main elements identified in the national circulars/advisories issued to date by Administrations that issue flag State endorsements to seafarers:

- Statement that the Administration will extend the validity of the flag State endorsement to reflect the exact length of the extension given by the Administration that issued the original certificate;
- Specification of the action(s) that a seafarer (or shipowner or operator on their behalf) must take to obtain the extension (e.g. submit online application, send an email with supporting documentation to evidence the circumstances to the Administration, provide letter from original certificate issuing Administration confirming extension, apply for a Confirmation of Receipt of Application (CRA) for a flag State endorsement, etc);
- Statement that CoPs and other documents that are not required to be recognised by the flag State remain valid for continued service on the ship flying the flag of the Administration;
- Statement that the Administration will issue a dispensation letter to allow a seafarer to continue serving in their capacity on board ship for a period of time if the Administration that issued the original certificate has not or will not give an extension to the original certificate;
- Specification of a requirement to record the details of seafarer certificates, including medical certificates, that have expired on board ship in the ship's logbook; and
- Statement that the expired original certificate should be carried and available on board to evidence that a seafarer is qualified.

There are some differences in the approaches being taken by Administrations, and the following are some of the main areas where differences have been identified, which will need to be understood and managed by shipowners and operators with different nationalities of seafarers and/or multiple flag States for their ships:

- Length of the extension provided – there is a range of between one and six-month extensions being given by Administrations that issue the original certificates. However, the majority have opted for three months;
- Extent of the action(s) required of the seafarer to obtain the extension – some Administrations require an application with one or more supporting documents, while other Administrations do not require any form of application; and
- Limits on the length of the period of extension – some Administrations have specified a deadline which would limit the length of the extension of certificates expiring close to the deadline, while other Administrations have not provided any limits or indication as to when extensions would no longer be available.

Medical certificates

Medical certificates have been addressed in the same national circulars/advisories issued by Administrations as those addressing the extensions of CoCs and CoPs, although in a slightly different manner. Administrations that approve medical practitioners for the conduct of seafarer medical examinations and the issuance of medical certificates and Administrations that are the flag States of the ship where a seafarer is serving with an expired medical certificate have both tended to specify an extension of three months for medical certificates. It is apparent they have sought the safety of only giving an extension that is already provided for in STCW regulation I/9 and Standard A1.2 of the Maritime Labour Convention, 2006, as amended. Only a couple of Administrations have contemplated an extension longer than three months.



The following are links to the national circulars/advisories issued by some of the largest seafarer supply states regarding the extension of the validity of expiring seafarer certificates:

India	https://dgshipping.gov.in/writereaddata/News/202003240148531388999DGS_Order_06of2020_001.pdf
Philippines	https://marina.gov.ph/wp-content/uploads/2020/03/MARNA-Advisory-No.-2020-14.pdf
Poland	http://www.ums.gov.pl/news/wytyczne%20przedłużanie%20CoC.pdf
Russian Federation	http://www.imo.org/en/MediaCentre/HotTopics/Documents/Circular%20Letter%20No.4237.pdf
Ukraine	http://www.imo.org/en/MediaCentre/HotTopics/Documents/Circular%20Letter%20No.4232.pdf

*Latest circulars issued up to 31 March 2020.

The following are links to the national circulars/advisories issued by some of the largest flag States regarding seafarer certificates and the extension of flag State endorsements:

Bahamas	https://www.bahamasmaritime.com/wp-content/uploads/2020/01/TA003-COVID-19-v4.0-ID-24529.pdf
Liberia	https://www.lisr.com/sites/default/files/online_library/Marine%20Advisory_07-2020_Certificates%20and%20Surveys-COVID.pdf
Malta	https://www.transport.gov.mt/include/filestreaming.asp?fileid=4718
Marshall Islands	https://www.register-iri.com/wp-content/uploads/MSA-2020-12.pdf
Panama	https://panamashipregistry.com/marine-notice/coronavirus-and-seafarers-employment-agreement/
Singapore	https://www.mpa.gov.sg/web/portal/home/port-of-singapore/circulars-and-notice/shipping-circulars/detail/8ac81725-f1de-4015-b5cd-0b474e11b92b

*Latest circulars issued up to 31 March 2020.

2.4 Guidance

Managing seafarer certificates during the COVID-19 pandemic requires planning and a number of actions by shipowners and operators to ensure that available extensions are obtained for their seafarers. This could be a fairly significant undertaking if a company has many nationalities of seafarers and/or multiple flag States.

The following are some general actions for consideration:

- Instruct ships to notify the company of any seafarer certificates that are due to expire or be due for revalidation in the next three months or other appropriate period (if not possible to identify from company records/database);
- Instruct ships to record the expiration of any certificates, including medical certificates, in the ship's official logbook;
- Identify all seafarers engaged by the company holding certificates, including medical certificates, that will expire and require revalidation during the next three months (or other appropriate period);
- Identify all the nationalities of those seafarers and collect the national circulars/advisories issued by those Administrations regarding seafarer certificates during the COVID-19 pandemic;
- Identify and complete action(s) to be taken to obtain or evidence extensions to the original certificates for



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each nationality of seafarer;

- Collect the national circulars/advisories issued by the flag State used by the company to ascertain the approach of the Administration(s) related to the expiration of seafarer certificates during the COVID-19 pandemic;
- Identify and complete action(s) to be taken to obtain extensions to the flag State endorsements to the original certificates for each nationality of seafarer;
- Provide all documentation resulting from action(s) taken to follow the approaches of the Administrations who issued the original certificates and flag States related to the extension of seafarer certificates to the ships;
- Provide ships with any relevant information or instructions on how any documentation received corresponds with the expired seafarer certificates; and
- Provide all relevant national circulars/advisories issued by Administrations to ships and instruct that they be kept available in order to be able to demonstrate to PSC or other third parties that the arrangements related to the expired seafarer certificates are acceptable to the flag State.

Any situation where Administrations need to make special determinations has the potential for any differences to lead to some issues. The following are some potential issues foreseen with the approaches being taken by Administrations:

- Some Administrations have advised that they will issue flag State endorsements that reflect the extended date of validity of the certificate as given by the Administration that issued the certificate, while at the same time some Administrations that issue the original certificates have advised that no application is required and the evidence of the extension is merely the national circular/advisory issued by the Administration (i.e. there is no documentation created or new expiry date). ICS considers that flag States will need to recognise this situation and demonstrate further flexibility to accommodate the approach of the Administration that issues the original certificates;
- Some Administrations have advised of a deadline beyond which the extension, regardless of its length in months, will no longer be available or apply. This is an approach to limit the duration to when it is anticipated the COVID-19 pandemic may be over, however it has the potential of causing a future problem whereby many applications for the revalidation of certificates will be submitted to such Administrations at the same time resulting in backlogs and processing difficulties;
- Many Administrations, in their capacity as flag States, have omitted from their national circulars/advisories to clarify that CoPs issued by other Administrations that do not require flag State endorsements remain valid for service on board their ships; and
- Many Administrations, in their capacity as an Administration under whose authority a number of different CoPs are issued, have omitted from their national circulars/advisories to clarify that those CoPs are also subject of the extension they are giving for seafarer certificates and should be accepted as valid by flag States.

While many Administrations have already issued national circulars/advisories on the subject of seafarer certificates, ICS is aware that there remain some Administrations that have yet to provide guidance. There also may be Administrations who decide to revise and re-issue their national circulars/advisories in light of experience gained, or as a result of having sighted the approaches of other Administrations. ICS considers that Administrations should be encouraged to consider including the following in any guidance on the extension of seafarer certificates during the COVID-19 pandemic:

- Provide a clear statement that the validity of seafarer certificates (CoCs, CoPs and medical certificates)



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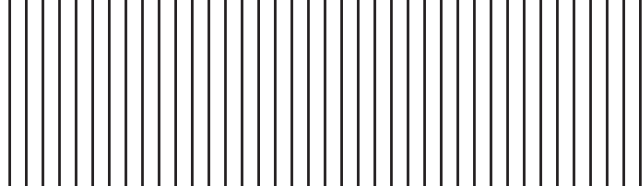
are extended due to impacts of the COVID-19 pandemic on the timely revalidation of those certificates;

- Specify a realistic length of extension, either in the form of an end of extension date or a period in months:
 - An end of extension date has the advantage of avoiding creating numerous new expiry dates and facilitates the making of arrangements to ensure that seafarers, as far as possible, attend and complete training courses or undergo medical examinations before the deadline. However, the disadvantage is that some certificates will only benefit from a very short extension that may give insufficient time and result in many certificates expiring at the same time.
 - An extension provided as a period in months has the advantage that it is applied individually to expiring seafarer certificates so every seafarer has the same amount of time to be able to attend and complete training courses and undergo medical examinations required to revalidate. However, the disadvantage is that certificates that expire early on during the COVID-19 pandemic will be given an extension (often three months) that will be insufficient in length and might be more challenging to manage more new expiry dates.
- Provide a clear statement that seafarer certificates are to be considered and treated as extended by virtue of the existence of the national circular/advisory stating that they are extended, which avoids needing to submit an application, avoids creating more correspondence and documentation, and reduces the chances of confusion and difficulties in implementation of the approach;
- Require no action by the seafarer (or shipowner or operator on their behalf) to obtain the extension (i.e. require no application), as this is an additional and unnecessary burden which may not be sustainable for Administrations to process throughout the course of the COVID-19 pandemic;
- Establish procedures for continuing to accept normal applications for revalidations of certificates as far as possible, potentially with some exemptions from meeting certain requirements in order to avoid receiving many months' worth of applications all at once following the COVID-19 pandemic;
- Specify that medical certificates should be given an extension in addition to the three months already provided for in the STCW Convention because it is unlikely that seafarers, in many cases, will be able to undergo medical examinations during the course of the COVID-19 pandemic meaning that three months will likely be insufficient time and will result in a further national circular/advisory providing another extension; and
- Indicate that the guidance, including any dates or lengths of extensions, will be reviewed by the Administration during the course of the COVID-19 pandemic, and if necessary further guidance or extensions may be issued.

There are some future considerations and challenges related to seafarer training and certification, which shipowners and operators may wish to begin to consider once they have dealt with the immediate need to arrange for the extension of seafarer certificates. These include:

- Impacts of the closure of maritime education and training institutions during the COVID-19 pandemic on the timely graduation of prospective seafarers to meet requirements of the crewing strategies and cadet programmes of companies;
- Impacts of the closure of maritime education and training institutions on the timely completion of various training courses by seafarers to meet inter alia requirements of company training matrices or requirements of charterers;
- Impacts of the time required for seafarers to attend and complete training courses and medical examinations after the COVID-19 pandemic on the length of leave periods and possible reduction of the pool of available seafarers to be assigned to ships; and
- Impacts of deferring the revalidation of many certificates to after the COVID-19 pandemic, which may create an enormous administrative burden on companies and Administrations and lead to backlogs and longer processing times.





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