



Human Environment and Transport
Inspectorate
*Ministry of Infrastructure
and Water Management*

Interim guidance to shipping related to the situation in Ukraine

Versie 2

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1 Introduction

This guidance provides an overview of the consequences of the situation in Ukraine for (seafarers working on) seagoing ships flying the flag of the Netherlands or foreign flagged ships with a port in the Netherlands as destination. It holds guidance for both the situation on board Netherlands' flagged ships as well as the consequences of the sanctions¹ imposed on any natural or legal person or entity as sanctioned per [Council Regulation \(EU\) No 269/2014](#) and restrictions on Russian flagged ships and trade restrictions of any goods and technology as sanctioned per [Council Regulation \(EU\) 833/2014](#).

In general, it should be endeavored that the ships and crew shall meet all applicable requirements. In applying flexibility, due regard was paid to the experiences gained with issues regarding repatriation, (re)validation of STCW and MLC certificates during the COVID-19 pandemic.

Whilst compiling this guidance, the Human Environment and Transport Inspectorate (further the Inspectorate) has taken into account the relevant publications of the IMO, ILO, EU and other regulatory bodies.

¹ In case of future additional sanctions published by the European Union, the Netherlands is directly bound by these amendments and the guidance will be updated accordingly.

2 Background

About 1500 Ukrainian and 2700 Russian seafarers are working on board ships flying the flag of the Netherlands. In some cases, it is not possible to be able to relieve the crew due to restrictions regarding disembarking or travel. In other cases the unsafe situation in their country of origin forces seafarers to stay on board longer than expected. And last but not least, the Ukraine crisis may also have its impact on the working and living conditions on board.

The situation in Ukraine may lead to interruption of the issuance and renewal of seafarer certificates and documents. This may have a serious negative impact on the ability of Ukrainian seafarers and the ships they are employed on to comply with the prevailing international and national rules and regulation.

Following the latest sanction packages there are restrictions for ships flying the flag of the Russian Federation and sailing to ports in the Netherlands (in exceptional cases an exemption may be provided for). This also applies for ships owned or controlled by persons or entities on the EU sanction-list. Furthermore, ships destined for Russia are not allowed to carry cargo, technology and loose parts/materials on board that have been placed on the EU Sanction-list.

The current EU sanction regime is not targeting Russian citizens, including Russian seafarers. It is therefore imperative to note that services should not be withheld from ships on which Russian seafarers are deployed.

3 Consequences of Council Regulations (EU) 269/2014 and 833/2014

3.1 Assigned responsibilities Human Environment and Transport Inspectorate

Sanctions are imposed via Council Regulation (EU) No. 269/2014 (as amended) concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine and Council Regulation (EU) No. 833/2014 (as amended) concerning restrictive measures in view of Russia's actions destabilizing the situation in Ukraine, restrictions have been imposed on ships, persons, entities, technology and goods.

Via the [Sanctions Act 1977](#) the Netherlands has implemented these regulations and one of the supervising authorities mentioned in the legislation is the Inspectorate. In this regard and on board ships, the Inspectorate has the following assigned responsibilities (based on the authorizations stipulated in the General Administrative Act):

- Entering places;
- Request access to all data and documents;
- Claiming information;
- Request access to proof of identity;
- Investigating cases and sampling;
- Investigation of means of transport and cargo, inspection of transport documents;
- Freeze operations and transfer the ship to a designated place.

If, in duly justified cases, a (possible) criminal offense is encountered, the Inspectorate will inform the relevant authorities (such as Dutch Customs, or the Public Prosecutors Office) for further proceedings. In some cases, and subject to agreement with aforementioned authorities, this may also be done by designated (special) investigation officers of the Inspectorate.

3.2 Registration in the Netherlands Registry

Primarily, it is not allowed to deliver any service to a person or entity on the EU Sanction-list. So all parties involved with the registration of a ship have the obligation to ensure that this is not the case. Also the issuance of a maritime Certificate of Registry is not allowed to be issued when the ship is delivered to, (partly) owned or operated by a person or entity on the EU Sanction-list. In the process of the application (including the Verification of Nationality) the Inspectorate also verifies, to the extent possible, if a person or entity on the sanction list is liaised to the application. However the Inspectorate doesn't always have access to all relevant information to conclude if a sanction is pending. The Inspectorate will only perform a verification of the submitted and other available information if relevant.

If in doubt, the application may be suspended until further evidence is provided that there is no connection to sanctioned persons or entities.

3.3 Temporary registration in another Registry

The abovementioned verification will also be performed for ships that will be temporarily suspended from the Netherlands' Registry and are bound to fly the flag of another Registry, before the issuance of a declaration of no-objection before the ship may be registered by the receiving Registry.

3.4 Port State issues

3.4.1 General

Starting from 17 April 2022 at 00:01, it is forbidden for EU ports to give access to ships flying the Russian flag. Ships that have been reflagged from a Russian flag to another flag on or after 24 February 2022 are also subject to the sanctions. In some cases an exemption for entering the port with specific goods may be applied for.

Furthermore, no services may be provided to persons and entities on the EU Sanction-list. This also applies to ships owned or operated by these persons and entities. Therefore, essential (port) services such as pilotage, assistance with mooring by oarsmen, bunkering and provisioning can therefore no longer be performed with regard to such ships. It may lead to unsafe situations if such a ship enters a port without being able to make use of essential (port) services.

Since a port authority (harbour master's office) receives a pre-notification and is the first party to communicate with such a ship destined for the port, the port authority is tasked to warn such a ship that no essential (port) services will be provided and that the ship will not be able to enter the port and is subject to the risk of being sanctioned.

3.4.2 Port State Control Inspections

During a Port State Control inspection, the Inspectorate will do its utmost to verify if any person or entity mentioned in the official ships' documents is subject to the EU Sanction-list and to verify on a sample basis if any goods or technology from the EU Sanction-list is on board and bound for a port in the Russian Federation (primary responsibility of the Dutch Customs).

Furthermore the Inspectorate is intensifying its supervision to a more data driven risk-based approach to verify if any ships calling its port comply with the sanction regulations.

If there are indications or clear evidence of the violation of these regulations, this (possible) criminal offence is notified to the relevant authorities as described above.

3.4.3 Russian Maritime Register of Shipping

The classification society Russian Maritime Register of Shipping (RS) is listed on the EU Sanction-list. All assets of this organization have been frozen. This may have consequences for the services provided by RS to any ship classed and certified by this organization. It may result in mandatory surveys or audits not carried out on time or the absence of required certificates or approval of documents.

It is required that a ship is being detained by a port State control officer in case that a ship does not comply with the requirements of the surveys, inspections and audits contained in the relevant Convention instruments.. It might also be possible that RS is not in the position to be able to send a surveyor to lift a detention. In such cases, the Inspectorate will elaborate with the port State and port authority.

3.4.4 Safety issues as a result of imposed sanctions

If a ship is not allowed to enter a port, but is in need of immediate assistance due to a safety threat to the ship, persons on board or the environment, the Netherlands Coast Guard may be contacted via the regular details provided on: <https://www.kustwacht.nl/en/contact>.

4 Crew related issues

4.1 Dispensations Minimum Safe Manning

If a crew member on board a ship flying the flag of the Netherlands needs to leave the ship due to urgent circumstances and cannot be replaced immediately due to the situation in Ukraine, a dispensation based on article 16 of the Seafarers Act can be requested for by making use of the form: 'Application for temporary exemption for crew composition', which can be downloaded from:

[Application temporary exemption for crew composition](#) (English)

or

['Ontheffing aanvragen bemanning koopvaardijship of vissersschip'](#) (Dutch).

Subject application for a temporary dispensation for the crew composition shall clearly state the reason for the request and provide a substantiation on how the shipowner intends to operate subject ship in a safe manner with a reduced crew composition. If the request for a temporary dispensation for the crew composition is related to the situation in Ukraine, the temporary dispensation will be free of charge until 30 September 2022.

4.2 Validity Certificates of Competency (CoC) and Certificates of Proficiency (CoP)

4.2.1 Ukraine

The government of Ukraine has issued [IMO Circular Letter No. 4232/Add.16](#) (February 21, 2022) communicated a COVID-19 measure extending the validity of expired Certificates of Competency and Seafarers Identity Documents until December 31, 2022. With [IMO Circular Letter No. 4519](#) (March 1, 2022), the government of Ukraine has issued a statement about the war in the country. With a reference therein to previous communication (the last two paragraphs of the first page of the letter from the government of Ukraine), [IMO Circular Letter No. 4232/Add.16](#) also declared applicable to the war situation.

4.2.2 Russian Federation

The Russian government announced a new COVID-19 measure in March 2022 that will run until 30 June 2022. This measure has been communicated by IMO with [Circular Letter No.4237/Add.27](#). Furthermore, the Russian government has communicated [IMO Circular Letter No.4535](#) the situation in Ukraine.

In connection with the above the Inspectorate recognizes or accepts seafarer certificates and documents of which the validity has been generically extended by either the Ukrainian or Russian administration.

4.3 Certificate of Receipt of Application (CRA)

The Netherlands recognizes Ukrainian Certificates of Competency (CoCs) and among other things, a verification in the application process is required. The website of the Government of Ukraine is not functioning at the moment and also the verification via telephone or e-mail is unlikely to get a response. For this reason the issuing entity Kiwa Register is allowed to issue CRAs (proof of a complete CoC application which remains valid) without verification until 30 September 2022.

4.4 Recognition of a Certificate of Competency or an STCW V/1-1 or V/1-2 CoP issued by the Ukraine or the Russian Federation

1. Dutch recognitions issued before 24 February 2022:
 - a. The Recognition of the CoC / CoP is still valid – no additional measures needed.

- b. The underlying CoC / CoP and therefore the Recognition has expired or will expire soon. If the validity of the underlying CoC / CoP is individually or generically extended by the national maritime authority, the validity of the Recognition is also extended automatically. No action required.
2. Application of a new or renewed Dutch recognition of Certificate of Competency on or after 24 February 2022:
 - a. The national CoC / CoP is valid. An application for a Dutch recognition can be submitted according to the normal procedure at KIWA Register. The seafarer will automatically be granted a Certificate of Receipt of Application
 - b. The national CoC / CoP has expired but it has been individually or generically extended by the national maritime authority. An application for a Dutch recognition can be submitted at KIWA Register. The seafarer will automatically be granted a Certificate of Receipt of Application (CRA), valid for 3 months or shorter if the extension is less than 3 months.

4.5 Certificates of Proficiency (CoP) issued under STCW Chapters V and VI

Certificates of Proficiency, other than those issued under STCW Regulations V/I-1 and V/1-2, of which the validity has been extended by a generic measure by the subject administration will remain to be accepted as valid for service on board Dutch flagged ships.

4.6 Certificates of Competency (CoC) and Certificates of Proficiency (CoP) for ratings

CoCs will be accepted as there is no limitation regarding the validity of those certificates. CoPs for ratings of which the validity has been extended by a generic measure by the Ukrainian or Russian Federation Maritime Administrations, will also remain to be accepted as valid for service on board ships flying the flag of the Netherlands.

4.7 Seafarers with certificates or documents left behind in Ukraine

Ukrainian seafarers working on Dutch flagged ships who have left professional certificates or documents behind in Ukraine may contact the Inspectorate for a solution. Cases will be considered on an individual basis. The basic principles that will be followed are the following:

- Kiwa Register will issue an official copy of a lost Certificate of Recognition (CoR), based on the earlier application for the original CoR).
- The inspectorate will issue a statement that the seafarer in question may serve on board Dutch ships with photocopies of the Ukrainian CoC and CoPs, based on the earlier registration of these documents by Kiwa (as part of earlier application for the CoR) and the shipping company or employer (obligations under Dutch law, the STCW Convention and the ISM Code).

5 Medical issues

5.1 Recognition and approval of medical examiners

In Russia the Inspectorate has appointed three medical examiners on behalf of the Minister of Transport and Water Management, who perform medical examinations for the Netherlands' flag. The appointment of these medical examiners remains in place. The validity of the recognition of the medical examiners is extended until 30 September 2022.

5.2 Medical certificates

Seafarer Medical Certificates held by Russian or Ukrainian seafarers that have expired in the period between 24 February 2022 and 30 September 2022, are granted an extended validity of 3 months (from date of expiry).

Based on [article 47 of the Seafarers Act](#), medical certificates may expire during the voyage. For seafarers that due to the situation in Ukraine cannot be relieved or are not in the possibility to renew their medical certificate in time, flexibility is provided for. The medical certificate should be reinstated at the earliest opportunity.

6 Maritime Labour Convention (MLC 2006)

Seafarers who are onboard a ship beyond the period of service of their original Seafarer Employment Agreement (SEA) for reasons connected to the situation in Ukraine.

A SEA shall remain valid until the seafarer has been repatriated to a destination of his choice. If the SEA has expired, the validity of the SEA must be extended or a new SEA shall be issued and the reasons for this decision shall be documented. The shipowner shall make sure that the seafarer is repatriated at the first available opportunity as requested by the seafarer.

If in any case it is not possible, or there is a strong objection against, to relieve a crew member or to end the service period of a crewmember with the nationality of Ukraine or the Russian Federation, flexibility may be granted by the flag State. In these cases, the Inspectorate should be contacted to authorize the extension of the validity of a SEA beyond the 11 months on a case-by-case basis.

A SEA can only be extended beyond 11 months if there is a mutual and documented consent of both the seafarer and the employer. The master may sign the extension of the SEA on behalf of the employer. The seafarer shall receive a copy of the extension of the SEA. The already accrued entitlement to paid annual leave continues to exist and continues to accrue during the extension of the SEA.

Upon request of the shipowner together with a copy of the extension of the SEA, a recent crew list and a repatriation plan, the Inspectorate can issue a statement to the ship serving as written evidence of the flag State's authorization for that ship and its individual seafarers on board that ship to perform any period of service on board beyond the default 11 months. This request can be send to: NSI-MLC@ILenT.nl.

It is recalled that, in any way, a valid SEA must remain in force until the seafarer is duly repatriated in accordance with [Regulation 2.5 of the MLC, 2006](#).

7 Shipowner's liability

Shipping companies remain liable for costs pending repatriation such as medical care, crew transfer, etc. If in doubt, please contact the financial security provider to confirm that the insurance or other financial security is in place for additional costs.

8 Relevant other information

8.1 Seafarers' initiative in Dutch Ports

Seafarers can encounter problems with repatriation, payment of wages or contacting their family members. They may also experience tension on board. Several organizations, like Nautilus and the Mission to Seafarers, active in ports in the Netherlands wish to assist these seafarers. They are committed to offering a helping hand and to seeing how they can be of assistance, irrespective of the nationality of the seafarer: www.seafarersinitiative.com

8.2 IMO Council C/ES.35 Decision

The Council welcomed the proposal that a number of steps should be taken to reduce the suffering of seafarers and their families, as follows:

1. as a priority, ships should be allowed to sail from the ports of Ukraine at the earliest opportunity without threat of attack;
2. for those ships that cannot leave immediately, or where it would be unsafe to do so due to the presence of sea mines or other hazards, humanitarian corridors should be set up that enable the safety of seafarers by allowing them to leave the conflict zone and return home, as appropriate;
3. any form of harassment of seafarers due to their nationality should be condemned;
4. seafarers affected by the conflict should be allowed free access to communications with their families;
5. States should ensure that seafarers are able to access their wages;
6. States should acknowledge the key worker status of seafarers and allow their unrestricted movement;
7. taking into account the key worker status of seafarers, States involved should strongly consider exempting their seafarers from mandatory military service; and
8. where port State control officers are presented with expired documentation, a pragmatic approach to the inspection should be taken, considering the exceptional nature of the situation.

8.3 Ships in, or sailing in the proximity of ports in Ukraine or the Russian Federation

Ukrainian ports are closed and though apparently not yet hindered much by sanctions, many shipping companies have vowed to disengage from the Russian export and import markets. Many other companies are divesting or putting their activities in Russia on hold. The IMO Council agreed to encourage the establishment, as a provisional and urgent measure, of a blue safe maritime corridor to allow the safe evacuation of seafarers and ships from the high-risk and affected areas in the Black Sea and the Sea of Azov to a safe place in order to protect the life of seafarers, ensure the mobilization and commercial navigation of vessels intending to use this corridor by avoiding military attacks and protecting and securing the maritime domain. If in need of assistance or further information on the blue safe maritime corridor, the Ministry of Infrastructure and Water Management - Directorate-General for Civil Aviation and Maritime Affairs should be contacted via: DGLM-MZsecretariaat@minienw.nl.

8.4 Ships laid-up in Ukraine (ports or anchorage)

The Maritime administration of Ukraine issued guidelines for laying up ships, per [IMO Circular Letter No.4534 - Communication From The Government Of Ukraine](#).

8.5 Marine Equipment Directive

The sanctioning of navigational equipment (subject to the MED approval) requires a harmonized approach between Member States. In this respect the sale, supply or transfer of soft- and hardware updates to navigation and communication equipment in general, and electronic navigational chart updates in particular, to Russian Federation non-military flagged/owned ships is of utmost relevance.

If some EU Member States do not supply these updates and other Member States do, this may end up in a situation where ships sailing in EU waters are not in compliance with the international Conventions and maritime safety may be compromised. In view of the fact that the products on the MED Implementation Regulation list are derived from SOLAS provisions (Safety of Life at Sea) it could be argued that all navigation and communication equipment captured under the agreed restrictive measures are intended for maritime safety. As such, this provision in the agreed restrictive measures might seem obsolete. Guidance from the Commission and/or EMSA in this respect is requested by the Netherlands Administration and ongoing.

9 Closure

This guidance has been drawn up taking into account the current information available concerning the situation in Ukraine. Any significant developments necessitating a revision of this document will be considered by the Human Environment and Transport Inspectorate and implemented accordingly. [NeRF-Maritime](#) will always provide the latest version of this guidance (including previous versions).

Shipowners and managers are encouraged to make a printed copy of this document and keep this available on board the ship. Upon request it may be necessary to present this document to the relevant authorities.