



GUIDELINES FOR ABUJA MOU DETENTION REVIEW PANEL

Section 3.12 of the Abuja MoU Memorandum states that the owner or the operator of a ship or his representative in the State concerned will have a right of appeal against a detention decision taken by the Authority of that State. An appeal will not cause the detention to be suspended. The Authority will properly inform the master of a ship of the right of appeal.

The purpose of these Guidelines is to provide a standard procedure where an owner or operator exercises their right of appeal in accordance with Section 3.12 of the Memorandum.

1. Owners or operators should be advised to use the official national procedure if they wish to appeal against a detention order.
2. If an owner or operator declines to use the official procedure but still wishes to complain about a detention decision, such a complaint should be sent to the flag State or the recognised organisation (if authorised to act for the flag State).
3. The flag State or recognised organisation may then ask the port State to reconsider its decision to detain the ship.
4. In such cases the port State should investigate the decision and inform the flag State or the recognised organisation of the outcome. If the port State agrees to reverse its decision it should also inform the Information system manager and the Secretariat.
5. In the event that the flag State, or the recognised organisation are dissatisfied with the response from the port State, then they can apply to the Abuja MoU Secretariat to have a Detention Review Panel review the matter. Such a request should be accompanied by all information relevant to the detention in electronic format (E-mail) and in the English language.
6. The Secretariat will set up a Detention Review Panel (DRP) comprising of itself and 4 MoU Authorities requested on an alphabetically rotating basis, excluding the port- and flag State (if appl.). The members of the panel will remain anonymous until the review case has been finalized. At this time the Secretary should advise the Chairman of the receipt of the appeal, and which members will comprise the Detention Review Panel.
7. The Secretariat will also inform the port State of the request for review by email or fax (incl. a copy of the complaint letter) and invite the port State to submit relevant information in electronic format (E-mail). In case the port State does not reply within 10 days the DRP will proceed with the review, based on the information submitted by the flag State and/or recognised organisation.
8. The Secretariat will also inform the port State involved with the detention decision of the request for a review, and will request at that time the port State submit all their relevant documentation relating to the ships detention.
9. The DRP will consider the procedural and technical aspects of the inspection based on the information provided by the flag State and/or the recognised organisation and the port State. The DRP members will return their opinions per checklist in electronic format (E-mail) to the Secretariat within 15 days. Should a Panel member require additional information, the Secretariat is to be contacted in order to ensure that all members receive identical information.
10. In case the DRP opinions differ, a preliminary summary will be circulated by the Secretariat in order to reach a unanimous opinion. Should a difference of opinion between panel members occur, the majority will decide on the outcome of the request for review.
11. The Secretariat will prepare a summary of the opinions of the DRP within 30 days of accepting the request and will inform the flag State or the recognised organisation, as appropriate, of the outcome of the review. The port State and the ISM WG will receive the summary of opinions. Copies will be sent to the DRP

members. The detail of correspondence between the DRP and the port State will be kept as an internal matter.

12. If the views of the DRP support the flag State or recognised organisation complaint, the port State will be requested to reconsider its decision again.
13. The findings of the DRP are not binding but may provide justification for the port State to amend its inspection data already inserted in the Information system and to inform the Information system manager and the Secretariat accordingly. The Secretariat will inform the flag State or recognised organisation, as appropriate, on the action (not) taken by the port State. Copies will be sent to the ISMWG and the DRP members to complete their files.
14. If after reviewing the findings of the Panel the port State considers their detention decision remains warranted. The detention decision will stand. The Panel has no power to overturn the decision of the port State.
15. The Secretariat will prepare an ongoing overview for every ISMWG meeting about results /status of the review.
16. The Secretariat will prepare an anonymous (identity of members of DRP or their individual findings not included) summary of the completed cases and publish it on the internal part of the website in order to improve harmonisation of inspections.
17. The ISMWG will submit an annual report on the activities of the DRP to Abuja MoU Committee Meeting.