

ANNEX X

**CRITERIA FOR DETENTION OF A SHIP
(referred to in Article 19(3))**

INTRODUCTION

Before determining whether deficiencies found during an inspection warrant detention of the ship involved, the inspector must apply the criteria mentioned below in points 1 and 2.

[^{X1}Point 3 includes examples of deficiencies that may for themselves warrant detention of the ship involved (see Article 19(3)).]

Editorial Information

- X1** Substituted by [Corrigendum to Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control \(Official Journal of the European Union L 131 of 28 May 2009\)](#).

Where the ground for detention is the result of accidental damage suffered on the ship's voyage to a port, no detention order shall be issued, provided that:

- (a) due account has been given to the requirements contained in Regulation I/11(c) of SOLAS 74 regarding notification to the flag State administration, the nominated surveyor or the recognised organisation responsible for issuing the relevant certificate;
- (b) prior to entering a port, the master or shipowner has submitted to the port State control authority details on the circumstances of the accident and the damage suffered and information about the required notification of the flag State administration;
- (c) appropriate remedial action, to the satisfaction of the Authority, is being taken by the ship; and
- (d) the authority has ensured, having been notified of the completion of the remedial action, that deficiencies which were clearly hazardous to safety, health or the environment have been rectified.

1. Main criteria

When exercising his professional judgement as to whether or not a ship should be detained the inspector must apply the following criteria:

Timing:

Ships which are unsafe to proceed to sea must be detained upon the first inspection irrespective of how much time the ship will stay in port.

Criterion:

The ship is detained if its deficiencies are sufficiently serious to merit an inspector returning to satisfy himself that they have been rectified before the ship sails.

The need for the inspector to return to the ship is a measure of the seriousness of the deficiencies. However, it does not impose such an obligation for every case. It implies that the authority must verify one way or another, preferably by a further visit, that the deficiencies have been rectified before departure.

2. Application of main criteria

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

When deciding whether the deficiencies found in a ship are sufficiently serious to merit detention the inspector must assess whether:

1. the ship has relevant, valid documentation;
2. the ship has the crew required in the Minimum Safe Manning Document.

During inspection the inspector must further assess whether the ship and/or crew is able to:

3. navigate safely throughout the forthcoming voyage;
4. safely handle, carry and monitor the condition of the cargo throughout the forthcoming voyage;
5. operate the engine room safely throughout the forthcoming voyage;
6. maintain proper propulsion and steering throughout the forthcoming voyage;
7. fight fires effectively in any part of the ship if necessary during the forthcoming voyage;
8. abandon ship speedily and safely and effect rescue if necessary during the forthcoming voyage;
9. prevent pollution of the environment throughout the forthcoming voyage;
10. maintain adequate stability throughout the forthcoming voyage;
11. maintain adequate watertight integrity throughout the forthcoming voyage;
12. communicate in distress situations if necessary during the forthcoming voyage;
13. provide safe and healthy conditions on board throughout the forthcoming voyage;
14. provide the maximum of information in case of accident.

If the answer to any of these assessments is negative, taking into account all deficiencies found, the ship must be strongly considered for detention. A combination of deficiencies of a less serious nature may also warrant the detention of the ship.

3. To assist the inspector in the use of these guidelines, there follows a list of deficiencies, grouped under relevant Conventions and/or codes, which are considered of such a serious nature that they may warrant the detention of the ship involved. This list is not intended to be exhaustive.

3.1. *General*

The lack of valid certificates and documents as required by the relevant instruments. However, ships flying the flag of States not party to a relevant Convention or not having implemented another relevant instrument, are not entitled to carry the certificates provided for by the Convention or other relevant instrument. Therefore, absence of the required certificates should not by itself constitute reason to detain these ships; however, in applying the 'no more favourable treatment' clause, substantial compliance with the provisions is required before the ship sails.

3.2. *Areas under SOLAS 74*

1. Failure of the proper operation of propulsion and other essential machinery, as well as electrical installations.

2. Insufficient cleanliness of engine room, excessive amount of oily-water mixtures in bilges, insulation of piping, including exhaust pipes in engine room contaminated by oil, improper operation of bilge pumping arrangements.
 3. Failure of the proper operation of emergency generator, lighting, batteries and switches.
 4. Failure of the proper operation of the main and auxiliary steering gear.
 5. Absence, insufficient capacity or serious deterioration of personal life-saving appliances, survival craft and launching arrangements.
 6. Absence, non-compliance or substantial deterioration of fire detection system, fire alarms, firefighting equipment, fixed fire-extinguishing installation, ventilation valves, fire dampers, quick-closing devices to the extent that they cannot comply with their intended use.
 7. Absence, substantial deterioration or failure of proper operation of the cargo deck area fire protection on tankers.
 8. Absence, non-compliance or serious deterioration of lights, shapes or sound signals.
 9. Absence or failure of the proper operation of the radio equipment for distress and safety communication.
 10. Absence or failure of the proper operation of navigation equipment, taking the provisions of SOLAS 74, Regulation V/16.2 into account.
 11. Absence of corrected navigational charts, and/or all other relevant nautical publications necessary for the intended voyage, taking into account that a type approved electronic chart display and information system (ECDIS) operating on official data may be used as a substitute for the charts.
 12. Absence of non-sparking exhaust ventilation for cargo pump rooms.
 13. Serious deficiency in the operational requirements, as described in Section 5.5 of Annex 1 to the Paris MOU.
 14. Number, composition or certification of crew not corresponding with the safe manning document.
 15. Failure to carry out the enhanced survey programme in accordance with SOLAS 74, Chapter XI, Regulation 2.
- 3.3. *Areas under the IBC Code*
1. Transport of a substance not mentioned in the Certificate of Fitness or missing cargo information.
 2. Missing or damaged high-pressure safety devices.
 3. Electrical installations not intrinsically safe or not corresponding to code requirements.
 4. Sources of ignition in hazardous locations.
 5. Contraventions of special requirements.
 6. Exceeding of maximum allowable cargo quantity per tank.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

7. Insufficient heat protection for sensitive products.
- 3.4. *Areas under the IGC Code*
 1. Transport of a substance not mentioned in the Certificate of Fitness or missing cargo information.
 2. Missing closing devices for accommodation or service spaces.
 3. Bulkhead not gastight.
 4. Defective air locks.
 5. Missing or defective quick-closing valves.
 6. Missing or defective safety valves.
 7. Electrical installations not intrinsically safe or not corresponding to code requirements.
 8. Ventilators in cargo area not operable.
 9. Pressure alarms for cargo tanks not operable.
 10. Gas detection plant and/or toxic gas detection plant defective.
 11. Transport of substances to be inhibited without valid inhibitor certificate.
- 3.5. *Areas under LL 66*
 1. Significant areas of damage or corrosion, or pitting of plating and associated stiffening in decks and hull affecting seaworthiness or strength to take local loads, unless proper temporary repairs for a voyage to a port for permanent repairs have been carried out.
 2. A recognised case of insufficient stability.
 3. The absence of sufficient and reliable information, in an approved form, which by rapid and simple means, enables the master to arrange for the loading and ballasting of his ship in such a way that a safe margin of stability is maintained at all stages and at varying conditions of the voyage, and that the creation of any unacceptable stresses in the ship's structure are avoided.
 4. Absence, substantial deterioration or defective closing devices, hatch closing arrangements and watertight doors.
 5. Overloading.
 6. Absence of draft mark or draft mark impossible to read.
- 3.6. *Areas under MARPOL 73/78, Annex I*
 1. Absence, serious deterioration or failure of proper operation of the oily-water filtering equipment, the oil discharge monitoring and control system or the 15 ppm alarm arrangements.
 2. Remaining capacity of slop and/or sludge tank insufficient for the intended voyage.
 3. Oil Record Book not available.
 4. Unauthorised discharge bypass fitted.

5. Survey report file missing or not in conformity with Regulation 13G(3)(b) of MARPOL 73/78.
- 3.7. *Areas under MARPOL 73/78, Annex II*
 1. Absence of the P&A Manual.
 2. Cargo is not categorised.
 3. No cargo record book available.
 4. Transport of oil-like substances without satisfying the requirements or without an appropriately amended certificate.
 5. Unauthorised discharge bypass fitted.
- 3.8. *Areas under MARPOL 73/78, Annex V*
 1. Absence of the garbage management plan.
 2. No garbage record book available.
 3. Ship's personnel not familiar with disposal/discharge requirements of garbage management plan.
- 3.9. *Areas under the STCW 78/95 and Directive 2008/106/EC.*
 1. Failure of seafarers to hold a certificate, to have an appropriate certificate, to have a valid dispensation or to provide documentary proof that an application for an endorsement has been submitted to the flag State administration.
 2. Evidence that a certificate has been fraudulently obtained or the holder of a certificate is not the person to whom that certificate was originally issued.
 3. Failure to comply with the applicable safe manning requirements of the flag State administration.
 4. Failure of navigational or engineering watch arrangements to conform to the requirements specified for the ship by the flag State administration.
 5. Absence in a watch of a person qualified to operate equipment essential to safe navigation, safety radio communications or the prevention of marine pollution.
 6. Failure to provide proof of professional proficiency for the duties assigned to seafarers for the safety of the ship and the prevention of pollution.
 7. Inability to provide for the first watch at the commencement of a voyage and for subsequent relieving watches persons who are sufficiently rested and otherwise fit for duty.
- 3.10. [F¹Areas under MLC 2006]
 1. Insufficient food for voyage to next port.
 2. Insufficient potable water for voyage to next port.
 3. Excessively unsanitary conditions on board.
 4. No heating in accommodation of a ship operating in areas where temperatures may be excessively low.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

5. Insufficient ventilation in accommodation of a ship.
6. Excessive garbage, blockage by equipment or cargo or otherwise unsafe conditions in passageways/accommodations.
7. Clear evidence that watchkeeping and other duty personnel for the first watch or subsequent relieving watches are impaired by fatigue.
- [^{F2}8. The conditions on board are clearly hazardous to the safety, health or security of seafarers.

Textual Amendments

- F2** Inserted by [Directive 2013/38/EU of the European Parliament and of the Council of 12 August 2013 amending Directive 2009/16/EC on port State control \(Text with EEA relevance\)](#).

9. The non-conformity constitutes a serious or repeated breach of the requirements of MLC 2006 (including seafarer's rights) relating to the living and working conditions of seafarers on the ship, as stipulated in the ship's maritime labour certificate and declaration of maritime labour compliance.]

Textual Amendments

- F1** Substituted by [Directive 2013/38/EU of the European Parliament and of the Council of 12 August 2013 amending Directive 2009/16/EC on port State control \(Text with EEA relevance\)](#).

- 3.11. *Areas which may not warrant a detention, but where, e.g. cargo operations have to be suspended.*

Failure of the proper operation (or maintenance) of inert gas system, cargo-related gear or machinery are considered sufficient grounds for stopping cargo operation.