

**Industry Expertise:
Loss Prevention**

Japan Webinar Q&A

Standard Club has produced this Q&A sheet to respond to questions received by attendees of the webinar 'Standard Club and Tokio Marine Japan Webinar'.

Answers are offered by hosts of the webinar.

Should you wish to discuss any further queries please contact one of the Standard Club panellists.



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Q: How does the club view Panama's proposal to extend the maximum time onboard for a crew member to 17 months and what impact do we feel this will have on crew welfare?

A: Panama flag has been actively involved in supporting crew change. It is not entirely clear on what basis they would be allowing an extension of crew contracts by another 3 months to a total of 17 months onboard as it is in violation of the MLC requirements and the temporary allowances which were agreed due to the pandemic. Having a seafarer work continuously for 17 months onboard will have a negative impact on seafarer wellbeing and potentially the safety of the ship. As such certain coastal states have reiterated that they will detain ships where they find crew to be serving onboard beyond 14 months. ITF and other unions are demanding immediate actions to conduct crew change. IMO, ICS and other industry bodies with IAPH and coastal states are working to allow for crew changes, however, with non-availability of regular flights there are different challenges which will need to be overcome. As such, the club does not see this extension as a permanent solution to the current crisis.

Q: From a P&I point of view, does it affect an owner if a seafarer's contract has been extended to over 14 months?

A: As a general point, if a crew member's contract is validly and legally extended then cover would operate in the same way as it would have during the initial contract period. Where a crew member has come to the end of the contract but remains on board waiting to be repatriated then the club would look to cover this under the usual crew rules first, falling back on the club's Third Parties (ie supernumeraries) rule as circumstances demanded.

More specifically, seafarer contracts beyond 14 months would be in breach of the MLC requirements and can lead to detention of the ship which will affect the owners commercially as well as their reputation. If safe manning requirements are affected, then it might be construed that the ship is un-seaworthy if the crew onboard do not comply with the MLC requirement and could lead to cover issues. It is in the interest of the ship owner to have a healthy and happy crew onboard to ensure safety. Every effort should be made to repatriate the crew who have completed their contracts.

Q: What should owners do when charterers do not allow vessels to deviate for crew change on owners time and cost?

A: This will depend on the charter party terms. Just because a deviation is due to crew changes doesn't automatically make it reasonable either under the charter party or from a club cover perspective.

Some clauses, such as the new BIMCO COVID-19 Crew Change Clause expressly deal with deviation for crew changes and many charterparties and contracts of carriage also provide 'liberty clauses' which allow the owner to deviate a vessel if reasonably required.

In addition, the master is responsible for the safety of the crew and the ship and most charterparties specifically provide that the master can or must take all reasonable steps to ensure the safety and seaworthiness of the vessel. It is important that members carefully consider the obligations under the charter party to ensure that any deviation is permitted and each deviation will need to be assessed on the merits from a reasonableness and club cover point of view.

Against that background, crew changes should be prioritised whenever possible, especially if the crew are completing 14 months of seetime and / or there is a risk that the ship might get detained or become unseaworthy, as these can have far reaching ramifications including breach of C/P requirements.

It is important that they discuss these issues with the charterers in advance so as not to have last minute surprises. It is also of fundamental importance for members to notify the club to get approval for the deviation to ensure that they do not prejudice their P&I cover. They may also be able to obtain up-to-date information regarding the restrictions at the intended port.

Q: We have all experienced changes to the way we work and changes have been seen offshore too. As we get back to some form of normality, do you anticipate that some of the changes made offshore will remain and if so, which ones?

A: This will be the new normal for at least some time to come until we have a vaccine and the situation is under control. While it might appear that the situation is improving in certain countries, the fact is that globally we are seeing more cases than ever before from new hotspots. We are also seeing new wave of infections in some countries where restrictions have been eased. Shipping is a global industry and needs to remain vigilant. Digitalization, remote working,

remote surveys and inspections, online completion of port formalities etc will become the new normal. As we move to this new virtual world, cyber security will become more critical than ever before and in more ways than one it will be the key for a company to be successful. The entire maritime sector will need to adapt to this new world and companies will need to implement new strategies from top down to remain relevant.

Q: I'd like to learn about insurance coverage in relation to deviation for crew change. If the deviation is caused by period limit (there is no infected crew), is there insurance coverage for the deviation cost such as additional bunker, port charge?

A: Further to the information provided in the responses to question 2 and 3 above, insurance coverage will be considered on a case by case basis, taking into account all the circumstances. Just because a deviation is due to crew changes doesn't automatically make it reasonable (or permissible) either under the charter party or contract of carriage, or from a club cover perspective. The club will consider, amongst other things, the nature and reason for the deviation, the extent of the deviation and the options that were available to the member at the time. It is important that members seek advice from the club in order to ensure cover will remain in place unprejudiced before making the decision to deviate.

Q: We are interested in sanctions on Russia as we consider this an attractive market.

A: The United States and European Union sanctions programmes targeting Russia and Ukraine have become more substantial in recent times, and it is certainly important that ship operators should be aware of these sanctions programmes when making decisions on whether to carry out commercial activity involving Russian / Ukrainian counterparties, cargoes and ports.

In general terms, these sanctions take the form of asset freezes imposed on named individuals/entities, trade embargoes and restricting access to key sectors of the Russian economy.

We would draw our members' attention to the following link at the club's website, which sets out the sanctions affecting Russia and Ukraine in some further detail: <https://www.standard-club.com/risk-management/knowledge-centre/browse-by-topic/sanctions/ukraine-russia.aspx>

The club's dedicated Sanctions Team would be more than happy to discuss Russian / Ukrainian sanctions in further detail with members that would like to find out more information about that this topic.

Q: What do you think of the potential sanction on operating a HK flag ship with Chinese crew or dealing with Chinese clients?

A: The potential for increased sanctions against Chinese and Hong Kong persons, entities and ships, in light of ongoing issues surrounding the political and legal status of Hong Kong, and the geopolitical relationship between United States and China, is a very important development that ship operators would be recommended to play close attention to going forward.

While it is difficult to predict exactly what level of additional sanctions (if any) may be imposed on China / Hong Kong in the future, the designating and sanctioning last year of two COSCO subsidiaries for carrying out shipments of petroleum from Iran (in breach of US secondary sanctions targeting Iran) illustrates that the United States are prepared to sanction Chinese persons and entities when they deem this necessary.

The club's Sanctions Team will continue to monitor this evolving situation closely and will provide regular updates to members via the club's website and via other publications.

Q: Can the Standard Club recommend an affiliated company to advise members on sanction matters?

A: While the Standard Club has no specific affiliation with a company of this type, the club does retain close relationships with a number of expert sanctions lawyers in, among other cities, New York, London, Dubai and Singapore.

If a Standard Club member has a specific query on sanctions then, as well as providing initial guidance to the member in the first instance, the club's Sanctions Team will be able to refer a member to a suitable expert sanctions lawyer who will be able to provide further detailed advice on the member's query.

Of course, while we would encourage members to take legal advice on sanctions issues as necessary, we would also always encourage our members to carry out adequate commercial due diligence and to maintain sanctions checking procedures which meet the key requirements set out in US OFAC's 'Compliance Framework'.

Q: Is a Cyber Security Plan Mandatory?

A: IMO Resolution MSC.428 (98) mandates that cyber risks are appropriately addressed in the company's safety management system (SMS) no later than the first annual verification of the Document of Compliance after 1 January 2021.

As per IMO's guidelines on maritime cyber risk management (MSC-FAL.1/Circ.3), one of the accepted approach to achieve this is by comprehensively assessing and comparing company's current, and desired, cyber risk management postures. Such a comparison may reveal gaps that can be addressed to achieve risk management objectives through a prioritized cyber risk management plan.

Q: Regarding cyber risks, please advise what kinds of cyber-attacks have actually occurred, and how they have caused problems to vessels and their operations.

A: There have been several cyber-attacks in the recent past, details of which are available in the WMU research paper. Some of the most notable ones are listed below for reference.

- In June 2017, Maersk was hit by a devastating cyber-attack caused by the NotPetya malware. Maersk was not targeted specifically, but was 'collateral damage'. The attack resulted in significant disruptions to Maersk's operations and terminals worldwide, costing them significant financial losses.
- In July 2017, soon after the Maersk attack, BW Group Singapore reported hacking of their computer systems.
- In July 2018, COSCO Shipping Lines fell victim to a cyber-attack that disrupted the company's internet connection within its offices in the Americas region. Apparently, COSCO was aware of what happened to Maersk and had taken steps to minimize their risk, yet those steps were not sufficient enough to deter the attack.
- In October 2018, Australia-based ferry and defence shipbuilder Austal was hit by a cyber-attack that breached the company's data management systems. The attackers managed to steal internal data and offered some of it for sale on the dark web in an apparent extortion attempt.
- In March 2019, the ransomware attack on Norwegian company Norsk Hydro forced to halt production in several plants and ended up costing them significantly.
- In April 2020, MSC was hit by a malware attack causing data centre outage which led to its main customer facing websites being down for several days.

Apart from above, there have been several incidents involving interference with GPS signals on the vessels.

- In 2016, it was reported that the GPS signals for several vessels were jammed off the coast of Korea.
- Similar GPS spoofing incidents have been reported in the past off Suez Canal, Mediterranean Sea, Black Sea.
- Last year US MARAD warned that ships operating in the Persian Gulf, Strait of Hormuz, and Gulf of Oman may also encounter GPS interference, bridge-to-bridge communications spoofing or other communications jamming.
- The latest in the series of GPS disruption was a number of incidents reported by ships operating off the coast of China.

As mentioned during the webinar, since the beginning of this year, the maritime industry has seen a surge of attempted cyber-attacks. There is a trend of malicious emails referencing COVID-19 to entice users to open the emails urgently.

This clearly demonstrates that cybercrime is an emerging threat, and unauthorised access or malicious attacks may have severe repercussions. As such, having a proper cybersecurity management is a business-critical requirement.

Q: What is the standard or minimum level of digital nativeness expected of seafarers in order to counter cyber-attacks?

A: IMO's guidelines (MSC-FAL.1/Circ.3) emphasizes on ensuring appropriate level of cyber risk awareness at all levels of an organization. The level of awareness and preparedness should be appropriate to roles and responsibilities in the cyber risk management system. However, currently there is no mandatory training requirement under STCW for cyber-security.

Notwithstanding this, training is a protection and control measure that forms the basis of cyber risk management. It helps to ensure that personnel understand how their actions will influence the effectiveness of the company's approach to cyber security.

It is recommended that all company personnel (ship and shore) should receive a basic cyber awareness training in support of the company's cyber risk management policies and procedures. Personnel who have been assigned with cyber security duties, should receive a type and level of cyber training appropriate to their responsibility and authority.

Keep up to date by visiting the Knowledge Centre section on our website [standard-club.com](https://www.standard-club.com)

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