



Indian Ocean Memorandum of Understanding (MOU) Detention Review Panel

Section 3.13 of the Indian Ocean MOU states in part;

‘The owner or operator of a ship will have the right of appeal against a detention to higher administrative Authority or to the court of competent jurisdiction, according to the law in each country. However, an appeal shall not cause the detention to be suspended’.

If an owner or operator wishes to make an appeal about a detention decision, then in the first instance they should use the official national procedures of the individual Indian Ocean MOU member country (port State) that issued the detention notice. The Indian Ocean MOU web site www.iomou.org provides a list of the member contacts that would advise on their countries basic appeal procedures.

Owners or operators should initiate the appeal procedure within 30 days from the date of detention, or within the timeframe required, or as advised, by the individual member country.

In the event an owner or operator declines to use the official procedures of the port State, but still wishes to complain about a detention decision; such a complaint with the relevant details should be sent to the vessels flag State, or recognised organisation (if authorised by the flag State to act on their behalf). The flag State, or recognised organisation may then ask the port State to reconsider its decision to detain the ship.

In such cases, the port State should investigate the detention decision, and inform the flag State or their recognised organisation of the outcome. If the port State agrees to reverse the decision, it should inform the Indian Ocean MOU Secretariat, and arrange for a correction to the PSC data held on the Indian Ocean Computerised Information System (IOCIS).

Submission of a case to the Detention Review Panel for review:

1. If the flag State, or their recognised organisation acting on behalf of the flag State disagree with outcome of the port State ruling, either may request for a review by the Indian Ocean MOU’s Detention Review Panel. ***
2. The flag State or their recognised organisation should send their request, in the English language by e-mail (or fax) to the Indian Ocean MOU Secretariat, within 90 days from the date of detention using the form in Appendix 1*. The request should include all the information relating to the ships detention.

3. The Secretariat will set up a 'Detention Review Panel' comprising three Indian Ocean MOU member authorities, chosen as per Secretary's choice** but excluding the port State. Also excluded from the Panel would be the vessels flag State and the ISM issuing country, if they are members of the IOMOU. The Secretariat will also inform the port State of the request for a review, and will request at that time they submit all their relevant documentation relating to the ships detention.
4. The Panel will only consider the procedural and technical aspects of the port State control inspection based on the information provided by the flag State, their recognised organisation, and the port State.
5. The Secretariat will prepare a final summary of the Panel member's opinions, and inform the flag State, or their recognised organisation. All correspondence between the Panel and the port State will remain as an internal matter.
6. If the views of the Panel support the flag State or their recognised organisation's complaint, the Secretariat will request the port State to reconsider their detention decision.
7. The findings of the Panel are not binding, but may provide justification for the port State to amend the inspection data entered into IOCIS. If a port State, based on the Panel's findings, agrees to reverse the detention decision and amend the PSC inspection data, the port State should immediately notify the Secretariat.
8. Owners, operators, or other interested parties cannot use any of the Panels findings or recommendations as grounds for claiming financial compensation. The Secretariat will inform the flag State, or the recognised organisation presenting the appeal of the resulting action taken by the port State.

* Detention Review Application – Appendix 1

** As decided during 14th Committee Meeting.

*** As decided during the 16th Committee Meeting, text edited.



Appendix 1

**Indian Ocean
Memorandum of Understanding (MOU)**

Detention Review Panel

Panel Review Case

Between and
 (Flag State or their Recognised Organisation (RO)) (Port State)

Documents Submitted for Review

		Submitted by:	
		Flag/RO*	Port State
1	Opinions related to the validity of the Detention:		
.1	Request by Flag State/RO, including opinion why detention not justified.		
.2	Statement from port State, including opinion why detention is justified.		
2	Ports State Control – Official Documentation.		
.1	Inspection report forms A & B, signed/unsigned*		
.2	Print-out inspection report from database		
.3	Notification of detention given to the Master		
.4	Notification of detention given to flag State and RO		
.5	Notification of release of ship		
.6	Request for agreement to proceed to a repair yard (if applicable)		
.7	Conditions of release from a detention to proceed to a repair yard (if applicable)		
3	Correspondence Between:		
.1	Ship owner & port State		
.2	Ship owner & flag State		
.3	Ship owner & RO		

.4	Ship owner & IOMOU Secretariat		
.5	Flag State & port State		
.6	Flag State & RO		
.7	Flag State & IOMOU Secretariat		
.8	RO & port State		
.9	RO & IOMOU Secretariat		
.10	Other		
4	Supporting documents/evidence		
.1	Photographs		
.2	Copies of ships drawings		
.3	Sketches made by crew/PSCO		
.4	Copies of relevant certificates		
.5	Logbook entries, maintenance records		
.6	Purchase orders, including invoices/service order, including reports*		
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*Delete what is not applicable