

ANNEX 8

APPEAL AND REVIEW PROCEDURES

Section 1 Appeal Procedure

- 1** Section 3.13 of the Med MoU memorandum states that "the owner or the operator of a ship will have the right of appeal against a detention decision 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."
- 2** Owners or operators are advised to use the official Authority's procedure if they wish to appeal against a detention order. The basic appeal procedures in the Med MoU member States are listed in the document called: Appeal procedures in Med MoU member States (as published on the website <http://medmou.org>).

Section 2 Review Procedure

- 1** In case an owner or operator declines to use the Authority's official appeal 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 authorized to act for the flag State).
- 2** The flag State or Recognised Organisation may then ask the port State to reconsider its decision to detain the ship.
- 3** 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 reserve its decision it should also inform the Med MoU database manager and the Med MoU Secretariat.
- 4** If the flag State or the Recognised Organisation disagrees with the outcome of the investigation as mentioned above, a request for review may be sent within 90 days, from the date of detention to the Med MoU Secretariat. Such a request should be accompanied by all information relevant to the detention in electronic format (submission by E-mail to: secretariat@medmou.org) and in English language.
- 5** If the port State is also a member of another PSC MoU, the Secretariat will liaise with the Secretariat of the other relevant PSC MoU
- 6** The Secretariat will set up a "Review Panel: comprising of the Secretariat as Coordinator and 3 MoU Authorities requested on an alphabetically rotating basis, excluding the port and flag State. The Secretariat will also inform the port State of the request of review and invite the port State to submit relevant information in electronic format.
- 7** The Review Panel 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 Review Panel members return their opinions to the Secretariat. Should additional information been required, the Secretariat will arrange this information to be provided to all Review Panel members. The detail of correspondence is kept as an internal matter. The Review Panel findings represent a majority opinion.
- 8** The Secretariat will prepare a summary of the opinions of the Review Panel and will inform the flag State or the Recognised Organisation, as appropriate, the port State and the MoU advisory Board.
- 9** If the view of the Review Panel supports the flag State or the Recognised Organisation's complaint, the port State will be requested to reconsider its decision again.
- 10** The findings of the Review Panel are not binding but could provide justification for the port State to amend its inspection data already inserted in the database and to inform the database 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.
- 11** The findings of Review Panel could not be used as a ground for claiming a financial compensation.