



Caribbean MOU Refusal of Access Review Panel Procedure

Introduction

Owners and operators who wish to appeal against a detention order are advised to use the official national procedures of the port State.

If an owner or operator declines to use the appeal procedures of the port State but nevertheless wishes to have the detention decision reviewed it may submit a complaint to the flag State or Recognized Organization (RO) authorized to act on behalf of flag State.

The flag State or the RO may then request the port State to reconsider its decision to detain the ship.

The port State on receipt of the request should investigate the refusal of access decision and inform the flag State or the RO of the results of the investigation. Where the port State agrees to reverse its decision, it should also inform the CMOU Secretariat (caribmou@caribbeanmou.org) and the CMOU database manager (majambia@mas.sr).

Submission of a case for review

1. If the flag State or the RO disagrees with the results of the investigation conducted by the port State it may request to the Secretariat to review the refusal of access decision of the port State.
2. The request may only be made by the flag State or the RO and shall be made within Thirty (30) days from the date of the issuance of the refusal of access for the vessel. The request should be accompanied by all information relevant to the detention in electronic format (E-mail) and in the English language.
3. Where the Secretariat has accepted the request for the review of the detention decision a "Refusal of Access Review Panel" (hereafter referred to as the "Panel") will be established comprising of a representative of the Secretariat and two (2) Authorities chosen by alphabetical order, excluding the port and flag State (if applicable). The Secretariat will also inform the port State of the request for review and invite the port State to submit

information relevant to its detention decision. The form attached shows the list of documents to be submitted for the consideration of the Panel.

4. The Panel will consider the procedural and technical aspects of the inspection or reasons for the refusal of access based on the information provided by the flag State and/or the RO and the port State.
5. The Secretariat will prepare a summary of the opinion of the Panel within thirty (30) days of accepting the request and will inform the flag State or the RO as appropriate and the port State. The details of the correspondence between the members of the panel and between the panel and the Port state and Flag state will be kept as an internal matter.
6. If the views of the Panel support the flag State or the RO's complaint, the port State will be requested to reconsider its decision.
7. The findings of the Panel are not binding but may provide justification for the port State to amend its inspection data already inserted in the CMOU database and to inform the Secretariat and the Database Manager accordingly.
8. The Secretariat will inform the flag State or the RO, as appropriate on the action (if any) taken by the port State.
9. The recommendation of the Panel cannot be used as a ground for claiming financial compensation.

Documents submitted for review:

		<u>Submitted by:</u>		<u>Pas:</u>
		Flag / R.O*	port State	
1	<u>Opinions:</u>			
.1	Request Flag / R.O., incl. opinion why detention not justified	<input type="checkbox"/>		..
.2	Statement port State, incl opinion why detention is justified		<input type="checkbox"/>	..
2	<u>PSC official documents:</u>			
.1	Inspection report form A & B, signed / unsigned*	<input type="checkbox"/>	<input type="checkbox"/>	..
.2	Print-out inspection report from database	<input type="checkbox"/>	<input type="checkbox"/>	..
.3	Notification of detention for the Master	<input type="checkbox"/>	<input type="checkbox"/>	..
.4	Notification of detention of the ship to flag State and R.O.	<input type="checkbox"/>	<input type="checkbox"/>	..
.5	Notification of release of the ship	<input type="checkbox"/>	<input type="checkbox"/>	..
.6	Request for agreement to proceed to a repair yard (if appl.)	<input type="checkbox"/>	<input type="checkbox"/>	..
.7	Conditions of release from a detention to a repair yard (if appl.)	<input type="checkbox"/>	<input type="checkbox"/>	..
.8	Refusal of access (if appl.)	<input type="checkbox"/>	<input type="checkbox"/>	..
3	<u>Correspondence:</u>			
.1	Ship owner – port State	<input type="checkbox"/>	<input type="checkbox"/>	..
.2	Ship owner – flag State	<input type="checkbox"/>	<input type="checkbox"/>	..
.3	Ship owner – recognized organization	<input type="checkbox"/>	<input type="checkbox"/>	..
.4	Ship owner – CMOU Secretariat	<input type="checkbox"/>	<input type="checkbox"/>	..
.5	Flag State – port State	<input type="checkbox"/>	<input type="checkbox"/>	..
.6	Flag State - recognized organization	<input type="checkbox"/>	<input type="checkbox"/>	..
.7	Flag State – CMOU Secretariat	<input type="checkbox"/>	<input type="checkbox"/>	..
.8	recognized organization – port State	<input type="checkbox"/>	<input type="checkbox"/>	..
.9	recognized organization – CMOU Secretariat	<input type="checkbox"/>	<input type="checkbox"/>	..
.10	Other	<input type="checkbox"/>	<input type="checkbox"/>	..
4	<u>Supporting documents / evidence:</u>			
.1	Photographs	<input type="checkbox"/>	<input type="checkbox"/>	..
.2	Copies of ship drawings	<input type="checkbox"/>	<input type="checkbox"/>	..
.3	Sketches made by crew / PSCO*	<input type="checkbox"/>	<input type="checkbox"/>	..
.4	Copies of relevant certificates	<input type="checkbox"/>	<input type="checkbox"/>	..
.5	Logbook entries, maintenance records	<input type="checkbox"/>	<input type="checkbox"/>	..
.6	Purchase orders, incl. invoice / Service order, incl. reports*	<input type="checkbox"/>	<input type="checkbox"/>	..
..	<input type="checkbox"/>	<input type="checkbox"/>	..
..	<input type="checkbox"/>	<input type="checkbox"/>	..
..	<input type="checkbox"/>	<input type="checkbox"/>	..
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..	<input type="checkbox"/>	<input type="checkbox"/>	..
..	<input type="checkbox"/>	<input type="checkbox"/>	..
..	<input type="checkbox"/>	<input type="checkbox"/>	..
..	<input type="checkbox"/>	<input type="checkbox"/>	..

* Delete what is not applicable