

REPLY BY THE NEDERLANDSE VERENIGING VOOR VERVOERSRECHT (NVV) (DUTCH TRANSPORT LAW ASSOCIATION) TO THE CMI QUESTIONNAIRE OF 30 SEPTEMBER 2015 ON PANDEMIC RESPONSE AND THE EFFECT ON SEAFARERS AND PASSENGERS AT SEA

Introduction

The Kingdom of the Netherlands is made up of four separate countries:

- the Netherlands
- Aruba
- Curaçao
- Sint Maarten.

Within the country of the Netherlands there are two separate legal systems: the one applying in the Netherlands in Europe and the other in the Caribbean Netherlands on the islands of Bonaire, Sint Eustatius and Saba. Consequently there are five different legal systems existing within the entire Kingdom.

With regard to the topic of this CMI questionnaire the differences between the separate jurisdictions will mainly arise from the fact that there may be inconsistencies in respect of ratification of international conventions: some of the conventions may not be ratified for each and every jurisdiction, and may therefore have not been incorporated in national law.

1. Is your jurisdiction a member of the World Health Organisation?

The Netherlands: Yes, the Kingdom of the Netherlands (as a whole) has been a member of the WHO since 7 April 1948, thus being amongst the earliest members of the organisation.

2. Has your jurisdiction given effect under its domestic law to the International Health Regulations (2005)?

The Netherlands: The Netherlands in Europe has given effect to the IHR 2005 by including the regulations in the *Wet Publieke Gezondheid* (Public Health Act) on 1 December 2008 (*Stb.* 2008, 482). This act also directly applies to the Caribbean Netherlands since 28 July 2012, while similar legislation applied to the Caribbean Netherlands since 10 October 2010 (*Wet Publieke Gezondheid BES*).

The countries Aruba, Curaçao and Sint Maarten have draft ordinances available implementing the IHR 2005 in their local laws. In both Curaçao and Sint Maarten this draft ordinance is called the *Landsverordening Publieke Gezondheid* (Public Health Ordinance) and in Aruba the *Landsverordening infectieziekten* (Infectious Diseases Ordinance). Yet, to date, it is uncertain when these Ordinances will enter into force. In the meantime, general rules on (infectious) disease control in these countries can be found in, amongst others, the *Landsverordeningen regelende de bestrijding van besmettelijke ziekten* (Infectious Disease Control Ordinances) and the *Quarantaine verordeningen* (Quarantine Ordinances).

3. *Has your jurisdiction ratified the IMO-MLC 2006 Convention?*

The Netherlands: The Netherlands has ratified the MLC 2006 on 13 December 2011. The convention entered into force on 20 August 2013 (*Trb.* 2013, 126) for the Netherlands in Europe. The convention entered into force for Curaçao on 14 April 2015 (*Trb.* 2015, 133).

4. *What steps have been taken within your jurisdiction to give effect to the IMO-MLC 2006 Convention?*

The Netherlands: Implementation of the IMO-MLC 2006 in the Netherlands in Europe has taken place by amending existing legislation. The IMO-MLC 2006 has been implemented in the following legislation: the Dutch Civil Code, the Dutch Code of Civil Procedure, the *Wet Zeevarenden* (Seafarers' Act), the *Wet Havenstaatcontrole* (Port State Control Act), *Arbeidsomstandighedenwet 1998* (Working Conditions Act 1998), the *Wet allocatie arbeidskrachten door intermediairs* (Placement of Personnel by Intermediaries Act), the *Wet economische delicten* (Economic Offenses Act) and the Dutch Criminal Code. (Legislative history to the Act on the Implementation of the Maritime Labour Convention 2006 (*Trb.* 2007, 93)(*Stb.* 2011, 394).

The legislator of Curaçao is currently working on a draft *Landsverordening Zeearbeid* (Ordinance Sea Labour), implementing the IMO-MLC 2006. On 23 June 2014, the temporary *Regeling Zeearbeid* (Regulation Sea Labour; PB 2014, no. 46) has been adopted to bridge the period until the Ordinance Sea Labour will enter into force.

5. *Has your jurisdiction ratified the IMO Facilitation of Maritime Traffic Convention 1965 (FAL Convention)?*

The Netherlands: Yes

6. *What steps have been taken within your jurisdiction to give effect to the FAL Convention?*

The Netherlands: The Netherlands has ratified the FAL on 21 September 1967 and the convention entered into force on 20 November 1967 (*Trb.* 1967, 174). The convention

applies to the entire Kingdom of the Netherlands. There is not a specific act by means of which the FAL Convention is incorporated into national law. However, depending on the particular topic (e.g. health, immigration), the particular legislation is intended to be compliant with the provisions of the FAL Convention where needed.

7. Are you aware if your jurisdiction has denied free pratique to a vessel during any of the following pandemics: Avian flu; SARS; Chikungunya or MERS?

The Netherlands: We are not aware of any ship being denied free pratique during any of the mentioned pandemics. However, during the recent Ebola outbreak the Port Health Authorities have been actively requesting a Maritime Health Declaration from ships from the affected areas.

8. Are you aware if your jurisdiction has taken any steps to establish the care capacities identified in Sections A and B of Annex 1 of the International Health Regulations, and in particular a “national public health emergency response plan” in compliance with the International Health Regulations?

The Netherlands: According to the *Rijksinstituut voor Volksgezondheid en Milieu* (National Institute for Public Health and the Environment), which is a part of the Ministry of Health, Welfare and Sport, the Netherlands acts in compliance with the Public Health Act and the executive implementation, the Public Health Decree. Annex 1 is incorporated in the latter.

The National Institute for Public Health and the Environment has indicated that there are different emergency response plans, depending on the health emergency in question. The primary level of observation and assessment lies with the ‘Gemeentelijke Gezondheidsdienst’ (Municipal Health Institute) as well as general practitioners. Duties and level of operations scale in accordance with Annex 1. The National Institute for Public Health and the Environment indicated that response plans and the established care capacities can be reviewed on their website.

9.

(a) What measures were taken by your jurisdiction during the recent Ebola outbreak?

The Netherlands: One of the measures taken during the Ebola outbreak consisted of informing the public. The Netherlands does not have strong (historic) ties with the affected area, which makes it hard to define the group at risk. There are no direct flights from the Netherlands to the affected areas. This troubles monitoring traffic between the Netherlands and the affected areas.

The measures taken were mainly aimed at preparing the medical staff for possible Ebola infected patients, such as raising awareness for the symptoms of Ebola and obliging practitioners to report any possible case of Ebola to the Municipal Health Institute. Any patient possibly infected with Ebola is to be isolated and to be treated by a limited group of medical staff. All the patients’ contacts are to be tracked and

their health to be monitored for three weeks.

Procedures for the Port of Rotterdam are available from the [Port Health Authority Rotterdam pages](#) on the Port of Rotterdam website.

(b) Which Department of State or organization in your jurisdiction was responsible for implementing those measures during the recent Ebola outbreak?

The Netherlands: The National Institute for Public Health and the Environment indicated that in the case of Ebola or other infection diseases the *Centrum Infectieziektebestrijding* (Centre for Infectious Disease Control) is put in charge of the national coordination and response. Local response is managed by the Municipal Health Institutes in conjunction with general practitioners.

The Centre for Infectious Disease Control also tends to the cooperation and sharing of information with international partners such as the WHO and the Centers for Disease Control and Prevention.

(c) Were maritime administrations within your jurisdiction consulted in relation to decisions taken within your jurisdiction during the recent Ebola outbreak?

The Netherlands: The National Institute for Public Health and the Environment indicated that in the case of a medical emergency there is continuous consultation and cooperation with all related parties in the country, including the maritime administrations.

More in depth involvement occurs on a case by case basis. In the recent Ebola outbreak there were no specific cases in the Netherlands within the scope of the maritime administration that required consultation of the maritime authorities. The only case where there was a need to discuss specifics was regarding a potential case of infection entering the Netherlands through Schiphol Airport. The airport authorities were involved in the response to this specific case.

(d) Were those who took decisions in your jurisdiction during the Ebola outbreak aware of the requirements of:

- (i) International Health Regulations 2005; and*
- (ii) The FAL Convention 1965 (As Amended); and*
- (iii) The ILO MLC 2006 Convention?*

The Netherlands: The National Institute for Public Health and the Environment indicated they have a legal department that checks whether its policy is in accordance with the applicable international regulations and conventions. However in the case of infectious diseases, it stated that it primarily operates in line with the Public Health Act.

(e) Were those making the decisions in your jurisdiction in relation to the Ebola outbreak aware of the potential conflict in the requirements between those Regulations and Conventions?

The Netherlands: Upon inquiry we have no information about the awareness of the National Institute for Public Health and the Environment about potential conflicts between the abovementioned regulations.

29 November 2016

Committee Ad Hoc

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