

## PORT STATE CONTROL

*PTBP MEMORANDUM CIRCULAR NO. 08-96, November 18, 1996*

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### I

#### Authority

A. R. A. 5173 — Coast Guard Law

B. PD 600 and PD 602 as amended by PD 979

### II

#### References

A. Memo. — Circular No. 02-77 as amended by Memo. — Cir. No. 01-91

B. Memo. — Cir. No. 02-92 on Port State Control

C. Regulation 19, Chapter I; Regulation 6, Chapter IX; and Regulation 4, Chapter XI of the International Convention for the Safety of Life at Sea, 1974, as amended

D. Article 21 of the International Convention on Load Lines, 1966

E. Articles 5 and 6; Regulation 8A, Annex I; Regulation 15, Annex II; Regulation 8, Annex III; and Regulation 8, Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended.

F. Article X and Regulation 4, Chapter I of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995

G. Article 12 of the International Convention on Tonnage Measurement of Ships, 1969

H. International Maritime Organization (IMO) Resolution A. 466 (XII) adopted in Nov. 1981

I. International Maritime Organization Resolution A.481 (XII) adopted on 19 November 1981

J. International Maritime Organization Resolution A.787 (19) adopted on 23 November 1995

K. Convention on the International Regulations for Preventing Collisions at Sea, 1972

L. International Labor Organization (ILO) Guidelines for Procedure on the Inspection of Labor Conditions on Board Ship, 1990

M. Memorandum of Understanding (MOU) on Port State Control in the Asia-Pacific Region dated 01 December 1993

N. Asia-Pacific Port State Control Manual published by the Tokyo MOU Secretariat in 1996

### III

#### Scope

This Memorandum Circular shall apply to all foreign-flagged vessels engaged in the international trade calling at any port of the Republic of the Philippines.

### IV

#### Purpose

A. This Memorandum Circular establishes a uniform implementation of the standards on foreign-flagged vessels calling at any port of the Republic of the Philippines, as stipulated in Resolution A.787 (19) which was adopted by the IMO Assembly on 23 November 1995, in the current Asia-Pacific Port State Control Manual and in the other existing international and national laws, rules and regulations pertaining to safety of life and property at sea, marine pollution prevention, minimum standards regarding shipboard conditions of employment and living arrangements, social and labor conditions (to include hours of work/rest periods), manning and competency of seafarers.

B. It likewise, prescribes the procedures in the conduct of Port State Control by authorized and qualified personnel of the Philippine Coast Guard (PCG), in reference to the relevant instruments.

### V

#### Application

These regulations apply to all foreign-flagged vessels calling at Philippine ports except:

- Naval and Coast Guard Vessels;
- Wooden ships of primitive build;
- Ships not propelled by mechanical means; and
- Other ships which are below convention size with respect to instruments relevant to Port State Control

### VI

#### Definition of Terms

A. Clear grounds: Evidence that the ship, its equipment, or its crew does not correspond substantially with the requirements of the relevant conventions or that the master or crew members are not familiar with essential procedures relating to the safety of ships or the prevention of pollution.

B. Deficiency: A condition found not to be in compliance with the requirements of the relevant convention.

C. Detention: Intervention action taken by the port State when the condition of the ship or its crew does not correspond substantially with the applicable conventions to ensure that the ship will not sail until it can proceed to sea without presenting a danger to the ship or persons on board, or without presenting an unreasonable threat of harm to the marine environment.

D. More detailed inspection: An inspection conducted when there are clear grounds for believing that the condition of the ship, its equipment, or its crew does not correspond substantially with the particulars of the certificates.

E. Stoppage of an operation: Formal prohibition against a ship to continue an operation due to an identified deficiency(ies) which, singly, or together, render the continuation of such operation hazardous.

F. Sub-standard ship: A ship whose hull, machinery, equipment, or operational safety is substantially below the standards required by the relevant convention or whose crew is not in conformance with the safe manning document.

G. Valid certificate: A certificate has been issued directly by a Party to a relevant convention or on its behalf by a recognized organization and contains: accurate and effective dates; meets the provisions of the relevant convention; and, with which the particulars of the ship, its crew and its equipment correspond.

H. Recognized organization: An organization which meets the relevant conditions set forth by resolution A.739(18), and has been delegated by the flag State Administration to provide the necessary statutory services and certification to ships entitled to fly its flag.

## VII

### General Provisions

A. The Philippine Coast Guard is vested by RA 5173 with the authority to conduct vessel inspections, to include all foreign-flagged vessels, for the promotion of safety of life and property at sea, control and prevention of marine pollution and verification of compliance with the minimum standards of training and social condition of officers and crew on boardship through its authorized and designated inspectors.

B. Port State Control inspections shall be undertaken on the basis of:

- the initiative of the Party (through representation of the Philippine Coast Guard);
- the request of, or on the basis of, information regarding a ship provided by another Party to a relevant convention;
- information regarding a ship provided by a member of the crew, a professional body, an association, a trade union or any other individual with an interest in the safety of the ship, its crew and passengers, or in the protection of the marine environment.

C. Port State Control shall be carried out by qualified PCG personnel authorized for the purpose by the government, acting on its behalf. In carrying out the functions, they are presumed to be conversant with pertinent PCG guidelines on the conduct of Port State Control inspections, the current Asia-Pacific Port State Control Manual and relevant IMO and ILO Conventions and other instruments.

D. Insofar as practicable, joint inspection with other agencies in pursuit of other ship service standards such as sanitation and quality of service shall be done in the course of Port State Control inspection to avoid inconvenience to ship's crew and undue delay in the operation of the ship.

## VIII

### Procedures

A. The PCG Port State Control Office (PSCO) in each international port shall coordinate with the local port authority for the availability of a copy of the shipping schedule.

B. At the earliest possible opportunity, the PSCO should ascertain the year of build and size of the ship to be boarded for inspection for the purpose of determining which provisions of the conventions are applicable. Before

boarding, the PSC Team should check the condition of the mooring ropes, gangway arrangements, general condition of the hull and if the loadline is properly marked on the ship's sides.

C. Upon boarding, the PSC Team should notify the master, or in his absence, the senior deck officer on board on the purpose of the visit. Then, it should seek information as to when the last port state control inspection took place and if undertaken within the last six months, ask to see the report of that inspection. If the report was satisfactory, no further action should be taken. If the report showed some deficiencies, the inspection should normally be confined to checking that remedial actions had been taken on the deficiencies noted in the previous inspection. If the previous deficiencies are found to have already been rectified, no further action shall be taken, as warranted. In both cases, the PSC team shall depart without delay. If however, the previous deficiencies remain uncorrected, the PSC team shall take note of the deficiencies and proceed with its inspection, furnishing the port State which conducted the previous PSC inspection a copy of the new Report of Inspection (Annex 1.1 - Form A and Annex 1.2- Form B [\*]).

D. If the ship has not undergone an inspection within the last six months, the inspection should proceed in verifying all the required certificates/documents and in the conduct of a cursory inspection, as warranted. If the inspection is satisfactory, the appropriate forms shall be filled up (Form A [\*]). After furnishing the master or the senior officer on board of the copy of the inspection report, the PSC Team should depart without delay.

If the ship does not carry valid certificates, or if the Port State Control Officer from general impressions or observations on board has clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particular of the certificates or that the master or crew is not familiar with essential shipboard procedures, a more detailed inspection should be carried out as described in Chapter 3 of the PSC Manual cited in paragraph II-N which is in reference to paragraph II-J. Form A [\*] and Form B [\*] shall be accomplished. The PSC Officer shall, likewise, advise the Master, local agent, local Classification Society Representative and the local flag State representatives (Consul), wherever possible, of the impending detailed inspection, and the result thereof, copy furnished the concerned District/Station Commanders and CPCG (Attention: AC of S, CG-8/CGOC).

E. The PSC Officer shall require the deficiencies to be corrected before a specified time and impose operational restrictions in the interim or detain the ship until deficiencies are corrected. If minor deficiencies are found but are deemed not endangering the ship, the people on board and the environment such that she may be allowed to proceed to the next port of call, the PSCO shall inform the port State next to be visited by the ship using the form in Annex 2 of this Memorandum Circular. A copy of same shall also be forwarded to the District/Station Commanders concerned and to CPCG (Attention: AC of S, CG-8).

F. Guidelines for the detention of ships are as follows:

- When deciding whether the deficiencies found in a ship are sufficiently serious to merit detention, the PSCO should assess whether:

- a. the ship has valid documentation;
- b. the ship has the crew required in the minimum Safe Manning Document.

- During the inspection, the PSCO should further assess whether the ship and/or crew, throughout its forthcoming voyage, will be able to:

- a. navigate safely;
- b. safely handle, carry and monitor the condition of the cargo;

- c. operate the engine room safely;
- d. maintain proper propulsion and steering;
- e. fight fires effectively in any part of the ship if necessary;
- f. abandon ship speedily and safely, and effect rescue if necessary;
- g. prevent pollution of the environment;
- h. maintain adequate stability;
- i. maintain adequate watertight integrity;
- j. communicate in distress situations if necessary; and
- k. provide safe and healthy conditions on board.

- If the result of these assessments is negative, taking into account all deficiencies found, the ship should be strongly considered for detention. A combination of deficiencies of a less serious nature may also warrant the detention of the ship.

- Further to the above, listed hereunder are additional guidelines for detentions. Before detaining a ship, the following should be considered:

- a. length and nature of the intended voyage or service;
- b. whether or not the deficiency poses a danger to the ships, persons on board or the environment;
- c. whether or not appropriate rest periods of the crew can be observed;
- d. size and type of ship and equipment provided; and
- e. nature of cargo.

G. The PSCO shall coordinate with the Philippine Ports Authority to hold the departure of a detained vessel until same is duly cleared by the PSC Officer.

H. In cases of ships carrying dangerous goods, the PSC Team may require the following, pursuant to Regulation 5, Chapter VII, SOLAS 1974, as applicable:

- A special list of dangerous and hazardous cargo manifest setting forth the dangerous goods on board and the location thereof.

- A detailed stowage plan which identifies by class and sets out the location of all dangerous goods on board.

The absence of either of these documents will be a sufficient reason for the PSC Officer to hold the vessel until they are both submitted accordingly.

I. After the PSC Inspection, the master of the vessel inspected shall be required to accomplish the Certificate of Orderly Inspection - Form D (Annex 3) [\*]. This will be followed by the proper and courteous departure of the PSC Team.

J. Port State Control Inspection Reports on ships of non-convention countries and of ships below convention size with deficiencies/violations should be submitted to the Administration of the country concerned by AC of S, CG-8, as submitted by the PSCO. Same reports shall also be submitted by the PSCO to the District/Station Commanders concerned.

## IX

### Responsibilities

A. The Commanders of Coast Guard Districts and Stations shall be responsible for the implementation of this Memorandum Circular and shall ensure:

- Proper coordination and information dissemination, particularly with PPA, MARINA, shipping companies and shipping agents.
- Positive control and supervision over Port State Control teams and proper conduct of PSC inspections.
- Expeditious submission of reports, as required .
- Training, proper qualification and competence of PSC inspectors.
- Submission by PSCOs of accomplished PSC forms and Inspection Reports to HPCG (Attention: AC of S, CG-8).
- Proper maintenance of PSC records aboard District and Station Offices.

B. The Port State Control Officer shall undertake the following:

- Notification of the Philippine Ports Authority Office in the area of the boarding of vessels by PCG personnel who will be conducting the inspection.
- Proper conduct of PSC inspections and accomplishment of required ports.
- Submission of reportorial requirements to CPCG (Attention AC of S, CG-8), as cited herein.
- Forwarding of copies of reports and appropriate notices to the District Commander, master of the vessel, local shipping agent concerned/owner's representative, local classification society representative concerned, local office of the flag State whose flag the vessel files (Consul) and CPGC (Attention: AC of S, CG-8). The Coast Guard Operations Center (CGOC) shall, likewise, be furnished copies of PSC reports in cases of vessel detentions and conduct of more detailed inspections of vessels.
- Close supervision of PSC inspectors relative to their conduct, competence and efficiency.

C. AC of S, CG-8 shall undertake the following:

- Monitoring of the general conduct of the PSC inspections in the country.
- Forwarding of relevant PSC reports to the International Maritime Organization and the Tokyo MOU Secretariat, through the Canadian Coast Guard which manages the Tokyo MOU Information System.
- Maintenance and updating of all PSC records and reports aboard CG-8 Office.
- Maintenance of close coordination with IMO and other members of the Tokyo MOU.
- Periodic review of existing PSC regulations and procedures.
- Publication of qualified PSC inspectors and the issuance of appropriate orders for same.
- Programming of training of PSC inspectors, thorough the Coast Guard Training Center (CGTC) and other local and foreign training centers and agencies.

D. The Director, Coast Guard Operations Center shall monitor the status of vessels detained until they are cleared

for their next voyages.

## **X**

### **Re-Inspection**

Re-inspection of vessels detained by the PSCO shall be conducted on the date and time to be requested in writing by the vessel's owner, his authorized agent or the vessel's master, for verification of the rectification of deficiencies found during the PSC inspection. No fines for the deficiencies shall be collected. However, a re-inspection fee shall be charged to the vessel's owner, his authorized agent or the master, as appropriate, in accordance with the following schedule and additional guidelines:

A. Five thousand pesos (P5,000.00) for the first hour of the PSC team on board the vessel requesting for re-inspection and one thousand pesos (P1,000.00) for every succeeding hour or a fraction thereof.

B. The PSCO shall issue the corresponding receipts for payment of charges collected and remit the said amount under the PCG Trust Receipt Account and undertake such other procedures in accordance with existing accounting and auditing policies.

## **XI**

### **Rescission Clause**

Memorandum Circular Number 02-92 dated 21 August 1992 is hereby rescinded.

## **XII**

### **Effectivity**

This Memorandum Circular shall take effect one month after publication in the Official Gazette or in a newspaper of general circulation.

Adopted: 18 Nov. 1996

(SGD.) ARTURO Y. CAPADA  
Commodore AFP

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[\*] Text Available at Office of the National Administrative Register, U.P. Law Complex, Diliman, Q.C.

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