

PORT STATE CONTROL

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I

Authority

- A. Republic Act (RA) 5173 (Philippine Coast Guard Law)
- B. Presidential Decree (PD) 600
- C. Presidential Decree 602, as amended by Presidential Decree 979

II

References:

- A. International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended
- B. International Convention on Load Lines, 1966
- C. International Convention for the Prevention of Pollution from Ships (MARPOL), 1973, as amended
- D. International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended
- E. International Convention on Tonnage Measurement of Ships, 1969
- F. International Maritime Organization (IMO) Resolution A.787 (19) adopted on 23 November 1995, as amended
- G. Convention on International Regulations for the Prevention of Collision at Sea (COLREGS), 1972
- H. Convention Number 147 of the International Labor Organization (ILO)
- I. Memorandum of Understanding (MOU) on Port State Control (PSC) in the Asia-Pacific Region dated 01 December 1993
- J. Asia-Pacific Region Port State Control Manual Published by the Tokyo MOU Secretariat
- K. Philippine Coast Guard Auxiliary (PCGA) Charter

III

Scope

This Memorandum Circular applies to all foreign-flagged vessels engaged in the international trade calling at any port of the Republic of the Philippines. It also covers the appointment and conduct of PCGA personnel as PSC Associate Members tasked to participate in PSC inspections.

IV

Objectives:

- A. To rationalize, harmonize, and ensure a more effective implementation of PSC in the country.
- B. To strengthen the enforcement of PSC function by infusing into the procedures recent PSC developments and innovations adopted by the Tokyo MOU on PSC in the Asia-Pacific Region.

V

Purposes:

- A. This Memorandum-Circular establishes a uniform implementation of the Convention standards of

foreign-flagged vessels calling at any port of the Republic of the Philippines as stipulated in the following relevant instruments:

1. Resolution A.787(19) adopted by the IMO Assembly on 23 November 1995, as amended;
2. Asia-Pacific Region PSC Manual published by the Tokyo MOU Secretariat; and
3. Other existing international and national laws, rules, and regulations pertaining to safety of life at sea, prevention of pollution of the marine environment, minimum standards regarding shipboard conditions of employment and living arrangements, social and labor conditions (to include hours of work), and minimum safe manning of ships and competency of seafarers.

B. In reference to the relevant instruments, it likewise prescribes the procedures in the conduct of PSC inspections by appointed, authorized and qualified personnel of the Philippine Coast Guard (PCG) as well as PSC Associate Members from the Philippine Coast Guard Auxiliary (PCGA) subject to certain limitations.

VI

Exceptions:

This Memorandum-Circular does not apply to the following:

- A. Ships of war, troopships, and Government vessels not engaged in trade
- B. Ships not propelled by mechanical means
- C. Wooden ships of primitive build
- D. Pleasure yachts not engaged in trade
- E. Fishing vessels

VII

Definition of Terms:

A. Port State Control. Measure adopted by a port State to ensure that foreign-flag vessels visiting its ports possess the relevant certificates and documents required by the Conventions and that the crew and the overall condition of the ship, its equipment, machinery spaces and accommodation, and hygienic conditions on board, meets the provisions of the relevant instruments.

B. Port State. The State whose port or offshore installation is visited by a ship flying the flag of another State for the purpose of trade.

C. Party. A State that has adopted a Convention through ratification or accession hence, the provisions of that Convention are applicable to ships carrying the flag of that State.

D. Authority. The Agency duly empowered by the port State to enforce and implement PSC functions. In the Philippines, the Philippine Coast Guard is the PSC Authority.

E. Clear grounds. Evidence that the ship, its equipment or its crew do not correspond substantially with the requirements of the relevant Conventions or that the Master or crew are not familiar with essential shipboard procedures relating to the safety of ships or the prevention of pollution.

F. Deficiency. A condition found not to be in compliance with the requirements of the relevant Convention or Code.

G. Detention. Intervention taken by the port State when the condition of the ship or its crew does not correspond substantially with the applicable Conventions or Codes 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 or harm to the marine environment.

H. 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.

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

J. 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.

K. Valid certificate. A certificate that has been issued directly by a Party to a relevant Convention or on its behalf by a recognized organization after survey to a ship, which satisfies the requirements of the relevant Conventions governing its construction and operation.

L. Recognized organization. An organization that meets the relevant conditions set forth by IMO Resolution A.739(18) duly authorized by a flag State Administration through delegation to provide the necessary statutory services and certification to ships entitled to fly the flag of the Administration.

M. Asia-Pacific Computerized Information System (APCIS). A system established for the purpose of exchanging information on port State inspections, in order to:

1. Make available to Authorities information on inspections of ships in other regional ports to assist them in their selection of foreign flag ships to be inspected and their exercise of port State control on selected ships.
2. Provide effective information exchange facilities regarding port State control in the region.

N. Virtual National Center (VNC) Philippines. Repository of PSC reports submitted by PCG PSC units, which is activated in the Asia-Pacific Computerized Information System (APCIS) database. Only PCG units can access this with strict observance of log-in name and password confidentiality. The communications flowchart for reporting to the VNC is set out in Annex 1.

O. Associate Member, Philippine Coast Guard Auxiliary (PCGA) personnel duly designated and appointed as part of PSC Team to perform PSC inspections, subject to certain limitations.

VIII

General Provisions

A. RA 5173 vested the PCG with the authority to conduct vessel inspections including 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 board the ships.

B. PSC inspections shall be undertaken on the basis of:

1. the initiative of the Party (through the PCG as the PSC Authority);
2. the request of, or on the basis of, information regarding a ship provided by another Party to a relevant Convention; and,
3. 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 duly appointed by the Commandant, PCG (through issuance of HPCG orders) as Port State Control Officers (PSCOs) and those from the PCGA who are

given appointments in the PCG as Associate Members, subject to certain limitations. PCG personnel shall be initially assessed and issued appointment orders by District Commanders prior to their endorsement to CPCG for confirmation and issuance of CPCG appointment orders as PSC inspectors. PCGA Associate Member appointment shall also be covered by HPCG orders. In carrying out PSC functions, both PSCOs and Associate Members should be conversant with the guidelines set forth in this Memorandum-Circular, the current Asia-Pacific Region PSC Manual, IMO and ILO Conventions, and other relevant instruments.

D. PCGA Squadron Commanders shall nominate to the PCG District Commanders PCGA personnel to be appointed as PSC Associate Members. The nomination form shall be in accordance with Annex 2, which shall be filled out by each nominee and properly endorsed by the PCGA Squadron Commander. PCG District Commanders shall collect and collate all nominations and forward them to the Commandant, PCG (Attention: CG-8).

E. A PCGA Associate Members Selection Board (hereinafter referred to as the Board) is hereby created at HPCG composed and designated as follows:

POSITION

DESIGNATION

PCGA National Director

Chairman

Superintendent, CGTC

Vice-Chairman

AC of S, CG-8

Member

AC of S, CG-9

Member

Deputy AC of S, CG-8

Member/Recorder

F. The Board shall deliberate on the nominations forwarded by PCG District Commanders. They shall select the most qualified PCGA personnel and recommend to the Commandant, PCG their appointment as Associate Members in the appropriate PSC Centers and Divisions. In their deliberations, the Board should be guided by Chapter 2.5: "Qualification and Training Requirements of PSCOs" of IMO Resolution A.787 (19), which provides the following:

1. The PSCO should be an experienced officer qualified as flag State surveyor.
2. The PSCO should be able to communicate in English with the key crew.
3. Training should be provided for PSCOs to give the necessary knowledge of the provisions of the applicable Conventions, which are relevant to the conduct of port State Control, taking into account the latest IMO Model Courses for port State Control.
4. In specifying the qualifications and training requirements for PSCOs, the Administration should take into account, as appropriate, which of the internationally agreed instruments are relevant for the control by the port State and the variety of types of ships, which may enter its ports.

5. PSCOs carrying out inspections of operational requirements should be qualified as: a Master or Chief Engineer and have appropriate seagoing experience, or have qualifications from an institution recognized by the Administration in a maritime related field and have specialized training to ensure adequate competence and skill, or be a qualified officer of the Administration with an equivalent level of experience and training, for performing inspections of the relevant operational requirements.

6. Periodical seminars for PSCOs should be held in order to update their knowledge with respect to instruments related to port State control.

G. In addition, the Board should ensure that the nominated Associate Members have no commercial interest, either in the port of inspection or in the ships inspected.

H. A contract of undertaking in accordance with Annex 3 should be executed by individual PCGA personnel upon approval by CPCG (through the recommendation of the Board) of their nomination as PSC Associate Members in the appropriate PSC Centers and Divisions. The duly signed contract of undertaking shall be forwarded by District Commanders to HPCG for the endorsement of CG-8 for the issuance of appointment orders by the Coast Guard Adjutant (CGA), in coordination with CG-1.

I. PSC Associate Members from PCGA shall perform PSC functions under the direct authority of the PSC Center or Division Commander where they are appointed. Their participation in this activity is governed particularly by the guidelines set forth in the contract of undertaking and this Memorandum Circular.

IX

Procedures:

A. PSC Centers and Divisions in each international port shall coordinate with the local port authority/operator for the availability of a copy of the daily or weekly shipping schedule (whichever is applicable).

B. At the earliest possible opportunity, PSCOs/Associate Members (hereinafter referred to as PSC team) should ascertain the year of build and size of the ship to be inspected for the purpose of determining which provisions of the Conventions are applicable. Before boarding, the PSC Team should check the condition of the mooring lines, gangway arrangements, general condition of the hull and if the load line 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 the PSC Team should seek information as to when the last PSC inspection of the ship 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 appropriate actions have been taken on the deficiencies noted in the previous inspection.

D. As warranted, no further action shall be taken if the previous deficiencies have been rectified. 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 that conducted the previous PSC inspection a copy of the new Report of Inspection (Annex 4.1 — Form A and Annex 4.2 — Form B). Use of the APCIS is encouraged to facilitate this process.

E. If the ship has not undergone an inspection within the last six months, the PSC Team 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 form (Form A) shall be filled up. After furnishing the Master or senior officer on board a copy of the inspection report, the PSC Team should depart without delay.

F. If the ship does not carry valid certificates, or if the PSC Team, 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 particulars 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 Asia-Pacific Region PSC Manual and using the applicable provisions of the check-list for PSC inspections set forth in Annex 5. Forms A and B shall be accomplished. The PSC Team shall likewise advise the Master, local agent, local Classification Society representative and the local flag State representative (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/Dir, CGOC).

G. The PSC Team shall require the deficiencies to be corrected before a specified time and impose operational restrictions in the interim or continuously detain the ship until the major deficiencies are corrected. If minor deficiencies are found but are deemed not to endanger the ship, the people on board and the environment such that she may be allowed to proceed to the next port of call, the PSC Team shall inform the port State next to be visited by the ship using the form in Annex 6. A copy of the form shall also be forwarded to the District/Station Commanders concerned and the CPCG (Attention: AC of S, CG-8) when there is failure in posting of same at the VNC Philippines.

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

1. When deciding whether the deficiencies found in a ship are sufficiently serious to merit detention, the PSC Team should assess whether:

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

2. During the inspection, the PSC Team 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.

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

4. Further to the above, listed hereunder are the additional guidelines for detentions:

- a. length and nature of the intended voyage or service;
- b. whether or not the deficiency poses a danger to the ship, persons on board, or the marine 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.

I. The PSC Center/Division shall coordinate with the Philippine Ports Authority (PPA) for the latter to hold the departure of a detained vessel until the PSC Center/Division Commander duly clears that vessel.

J. In cases of ships carrying dangerous goods, the PSC Team may require the inspection of the following, pursuant to Regulation VII/5, SOLAS 74/78, as applicable:

1. A special list of dangerous and hazardous cargo manifest setting forth the dangerous goods on board and the location thereof.
2. A detailed stowage plan, which identifies the cargoes 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 Team to hold the vessel until they are both submitted accordingly.

K. After the PSC inspections, the Master of the vessel inspected shall be required to accomplish the Certificate of Orderly Inspection (Annex 7 — Form D). This will be followed by the proper and courteous departure of the PSC Team.

L. Re-inspection of vessels detained by a PSC Center/Division shall be conducted on the date and time 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 inspections. No re-inspection fee shall be collected.

X

Responsibilities

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

1. Proper coordination and information dissemination, particularly with PPA and local shipping agents.
2. Positive control and supervision over PSC Teams and proper conduct of inspections.
3. Expeditious submission of reports, as required.
4. Collection and collation of PCGA Associate Member nomination forms and their subsequent submission to CPCG (Attn: AC of S, CG-8).
5. Submission by PSC Centers and Divisions of accomplished PSC forms and inspection reports to HPCG (Attention: AC of S, CG-8) if reports have not been posted in the Virtual National Center Philippines (APCIS).
6. Proper maintenance of PSC records aboard District and Station offices.
7. Initial issuance of District appointment orders for PCG personnel assessed to be qualified PSC inspectors, prior to their submission to CPCG (Attn: CG-8) for confirmation and issuance of CPCG appointment orders.

B. The PSC Center/Division Commander shall undertake the following:

1. Proper coordination and information dissemination, particularly with PPA and local shipping agents.
2. Proper conduct of PSC inspections and accomplishment of required reports including those that are required to be posted at VNC Philippines.
3. Submission of reportorial requirements to CPCG (Attention: AC of S, CG-8) as stipulated herein in accordance with para X.A(5).
4. 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, and local office of the flag State whose flag the vessel is entitled to fly (Consul). The Coast Guard Operations Center (CGOC) shall likewise be furnished copies of PSC reports in cases of vessel detentions in accordance with HPCG SOP No. 01-00 dated 11 February 2000.
5. Close supervision of PSCOs and Associate Members relative to their conduct, competence, and efficiency.

C. AC of S, CG-8/Director, PSC Central shall undertake the following:

1. Monitoring of the general conduct of PSC inspections in the country.
2. Approval and forwarding of relevant PSC reports to the IMO and the Tokyo MOU Secretariat including those being sent to the Asia-Pacific Computerized Information System (APCIS) database in Vladivostok, Russia.
3. Maintenance and updating of all PSC records and reports aboard CG-8 Office.
4. Maintenance of close coordination with IMO Tokyo MOV Secretariat and other members of the Tokyo MOU.
5. Periodic review of existing PSC regulations and procedures.
6. Review of qualifications and subsequent endorsement for the confirmation by CPCG of appointment orders of qualified PSCOs.
7. Carefully screen for completeness of entries the Associate Member nomination forms submitted by the PCG District Commanders and direct the Deputy, CG-8 to prepare the administrative requirements necessary for the deliberation of the Board.
8. Assessment of PCG personnel with District appointment orders as PSC inspectors and recommendation for issuance of CPCG appointment order.
9. Programming of training of PSCOs through the Coast Guard Training Center (CGTC) and other local and foreign training centers and agencies, in coordination with AC of S, CG-7. Training of Associate Members shall be addressed in coordination with the concerned PCGA squadron.
10. Monitor the status of vessels detained until they are cleared for their next voyages.

XI

Penalty Clause:

A. PCG personnel who fail to perform properly their duties and responsibilities as PSCOs including, but not limited to, the causation of unreasonable delay to ships inspected, and/or those whose actions violate the integrity of an inspection shall be punished in accordance with existing applicable regulations.

B. The appointment orders of PCGA Associate Members found in violation of the relevant provisions of this Memorandum-Circular related to their participation in PSC inspections including, but not limited to, failure in maintaining the integrity of an inspection, shall be immediately terminated without prejudice to filing of appropriate administrative and/or criminal charges and the payment of all damages incurred resulting from such violations. Likewise, their appointment to the PCGA shall be subjected for review to determine their suitability to stay in the service of the PCGA.

XII

Rescission Clause:

Memorandum-Circular No. 08-96 dated 18 November 1996 is hereby rescinded.

XIII

Effectivity:

This Memorandum Circular shall take effect fifteen (15) days after its publications in the Official Gazette or in a newspaper of general circulation.

Adopted: 28 Sept. 2000

(SGD.) EUCEO E. FAJARDO

RADM PCG

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