

# PORT STATE CONTROL IMPLEMENTATION REGULATION

From the Ministry of Transport and Infrastructure

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## PART ONE

### Introductory Provisions

#### Purpose

**Article 1- (1)** The purpose of this Regulation is to determine the procedures and principles regarding the inspection of ships engaged in maritime transport within our maritime jurisdiction areas in terms of compliance with navigation, life, property and environmental safety under the international legislation to which we are a party; the inspection of the living and working conditions of seafarers serving on board; the imposition of necessary sanctions on those not in compliance; and the authorization and assignment of port state control officers to carry out such inspections.

#### Scope

**Article 2- (1)** This Regulation applies to foreign-flagged ships arriving at or anchoring in port facilities and offshore installations, and to their personnel.

(2) This Regulation shall not apply to fishing vessels, warships and auxiliary warships, state ships used for non-commercial purposes, wooden ships built with primitive methods and techniques, and private yachts not engaged in commercial activity.

#### Legal Basis

**Article 3- (1)** This Regulation has been prepared based on:

- Law No. 4922 of 10/6/1946 on the Protection of Life and Property at Sea,
- Articles 478 and 490 of Presidential Decree No. 1 on the Presidential Organization,
- The provisions of the Mediterranean Memorandum of Understanding on Port State Control signed on 11/7/1997,
- The provisions of the Black Sea Memorandum of Understanding on Port State Control signed on 7/4/2000.

#### Definitions

**Article 4- (1)** The following terms used in this Regulation shall mean:

- a) *Offshore facility*: A fixed or floating installation operating in Turkish territorial waters.
- b) *Clear grounds*: Evidence defined by the International Maritime Organization's applicable port state control procedures showing that the ship, its equipment or crew do not meet the requirements of relevant conventions, or that the master or crew are unfamiliar with procedures relating to ship safety or pollution prevention.

- c) *Mediterranean MoU*: The latest updated version of the Memorandum of Understanding on Port State Control signed in Malta on 11/7/1997.
- ç) *Ministry*: The Ministry of Transport and Infrastructure.
- d) *Inspection*: An examination conducted onboard to verify the validity of the ship's certificates and documents, the general condition of its equipment and personnel, compliance with international conventions, and the living and working conditions of the crew.
- e) *Detailed inspection*: An inspection covering the ship's structure, equipment, manning, living and working conditions, and operational procedures in whole or in part under the conditions stated in Article 15(3).
- f) *Suspension of activity*: The prohibition of a ship from continuing an activity until identified deficiencies endangering its continuation are rectified.
- g) *Ship*: Any foreign-flagged sea-going vessel subject to one or more international conventions.
- ğ) *Expanded inspection*: An inspection of ships subject to expanded control under the provisions of the MoU to which Turkey is a party.
- h) *Target ship*: A ship identified by the MoU or by the Administration's instructions as requiring priority inspection.
- ı) *IMO*: The International Maritime Organization.
- i) *Administration*: The Directorate General of Maritime Affairs of the Ministry of Transport and Infrastructure.
- j) *Black Sea MoU*: The latest updated version of the Memorandum of Understanding on Port State Control signed in Istanbul on 7/4/2000.
- k) *Port Authority*: Regional port authorities of the Ministry and port directorates.
- l) *Port State Control Officer*: A public official authorized by the Administration to conduct port state control inspections under the provisions of international conventions to which Turkey is a party, who prepares inspection reports, and who is employed by and accountable solely to the Ministry.
- m) *Port facility*: Natural or artificial maritime areas defined by the Administration where ships can safely load/unload cargo and passengers, berth, shelter, including quays, piers, buoys, anchorages, approach areas, enclosed and open storage areas, waste reception facilities, administrative/service buildings and related structures, with controlled access.
- n) *Priority factor*: A deficiency, report, complaint, or evidence defined by the MoU or the Administration that renders a ship a target ship.
- o) *Detention*: Prohibition of a ship from sailing when identified deficiencies render it unseaworthy.
- ö) *International convention*: International conventions to which Turkey is a party, their protocols, amendments, and mandatory related codes in their current form applicable in Turkey.
- p) *YDS/e-YDS*: Foreign Language Proficiency Exam/Electronic Foreign Language Exam.

r) *Recognized organization*: A classification society authorized under the IMO Code for Recognized Organizations by the flag State administration.

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## **PART TWO**

### **Obligations of the Administration and Port State Control Officer**

#### **Obligation of port state control**

**Article 5- (1)** The Ministry shall take all necessary measures to carry out inspections and fulfill obligations under this Regulation and to ensure maritime safety. Within this framework, it shall provide a qualified and sufficient number of port state control officers, and the necessary tools, equipment, documents, and occupational health and safety clothing for their use.

#### **Conditions required for port state control officers**

**Article 6- (1)** Port state control officers must meet the following conditions:

(a) Be graduates of faculties or colleges providing undergraduate education in maritime-related fields such as:

1. Maritime Transportation Management Engineering or Deck,
  2. Marine Engineering Operations or Marine Engineering,
  3. Marine Engines,
  4. Naval Architecture and Marine Engineering,
  5. Naval Architecture and Marine Engineering (combined programs),
  6. Shipbuilding and Marine Engineering,
  7. Naval Architecture,
  8. Naval Architecture and Maritime Technologies,
  9. Marine Technology Engineering or Ship and Marine Technology Engineering, or equivalent foreign or domestic higher education institutions recognized by the Council of Higher Education.
- (b) Provide valid proof of English language proficiency (minimum level E in YDS/e-YDS or equivalent international exam recognized by ÖSYM).
- (c) Possess sufficient knowledge of international conventions and port state control.
- (ç) Complete theoretical and practical training determined by the Administration, and fulfill at least one of the following:
10. Hold an unlimited chief officer or higher qualification.

11. Hold an unlimited second engineer/machinist or higher qualification.
  12. Have 1 year of sea service as unlimited watchkeeping officer or engineer, plus 1 year service as flag State surveyor inspecting and certifying ships.
  13. Be a graduate of naval architecture/marine engineering related fields and have 3 years of service in shipyards or classification societies, or a combination of 1 year in shipyards/classification and 2 years as flag State surveyor.
  14. Be a graduate of the programs listed in (a) and have 3 years' service as a flag State surveyor inspecting and certifying ships.
- (2) Minimum requirements for ship inspections as flag State surveyor are determined by the Administration.

## **PART THREE**

### **Procedures and Principles of Inspections**

#### **Minimum inspection obligation**

**Article 13- (1)** The total number of annual inspections to be conducted by the Administration shall primarily be determined according to the obligations specified in the port state control MoUs to which Turkey is a party; however, the Administration may amend the minimum inspection numbers based on its own target ship criteria.

#### **Determination of ships to be inspected**

**Article 14- (1)** Priority shall be given in inspections to:

- a) Target ships identified by MoUs or by the Administration's instructions,
- b) Ships that have malfunctioned or been involved in an accident,
- c) Ships subject to deficiency/complaint notifications,
- ç) Ships calling at Turkish ports for the first time or after more than 12 months.

(2) Based on priority factors announced by the Administration and the condition of the ship, the inspection program shall be prepared and approved by the Port Director. This authority may be delegated to the deputy Port Director.

(3) Except for the ships listed above:

- a) Ships inspected within the last 6 months by MoU member States,
  - b) Ships for which no clear grounds exist,
- shall not be given priority.

(4) The Administration may establish rules for priority factors, create a national prioritization system, and share data/statistics with other States or international/regional bodies.

(5) The Administration shall establish a database for inspections.

## **Inspection principles**

**Article 15- (1)** The PSCO (Port State Control Officer) shall, at minimum, examine the information and documents listed in IMO's applicable PSC procedures. Inspections include the general condition of the ship (including hygiene, engine room, and accommodation areas), applying the procedures specified in this Regulation, PSC procedures, MoUs, international conventions, and the Administration's instructions.

(2) The PSCO is also authorized to examine all other mandatory documents required by international conventions.

(3) Where clear grounds exist that the ship, equipment, or crew do not meet requirements, a detailed inspection shall be conducted.

(4) The presence of such clear grounds is deemed established if, in the PSCO's professional judgment, there is evidence requiring a more detailed inspection.

(5) Neither the Port Authority nor the PSCO is obliged to notify stakeholders in advance of an inspection.

(6) For ships under 500 GT, the PSCO shall ensure compliance with applicable international requirements and that safety, health, or the environment are not endangered by issues not covered by international conventions, using IMO PSC procedures and annexes as guidance.

(7) Ships flying the flag of a State not party to a convention shall be subjected to equivalent requirements as if they were flying the flag of a State party to that convention.

(8) Ships subject to expanded inspection under MoU provisions shall undergo such inspection accordingly.

(9) IMO procedures, MoU procedures, and Administration's PSC instructions shall be published on the Administration's website or electronic system.

## **Action when ships cannot be inspected**

**Article 16- (1)** Where a PSCO is unable to inspect a ship assigned under Article 14(2), the officer shall immediately inform the Port Authority with reasons.

(2) Such ships shall be inspected at another Turkish port of call under this Regulation.

## **Measures for refusal of ship entry**

**Article 17- (1)** If a ship departs without authorization despite being detained in Turkey or an MoU country, or fails to call at a repair yard it declared, a 6-month entry ban to Turkish ports shall apply.

(2) Ships detained three or more times within the last 36 months in Turkey shall be refused entry to Turkish ports.

(3) Entry refusal shall be applied immediately after the third detention or upon confirmation of situations under paragraph (1). The decision shall be recorded in the port management system, published on the Administration's website, and lifted by the relevant Port Authority upon compliance.

(4) Ships banned under paragraph (2) shall receive a 12-month ban upon the first occurrence, and 24 months upon recurrence within 12 months after the ban expires.

(5) Captains, owners, operators, and agents shall be informed in writing of entry bans.

(6) Banned ships shall be inspected at their first Turkish port call after expiry of the ban.

(7) A second-time banned ship detained again shall receive a permanent entry ban to Turkish ports.

(8) Where MoUs require regional bans due to detention numbers, such bans shall also apply.

(9) The Administration may restrict entry of ships under black-listed or non-performing flags, or listed as substandard.

### **Inspection reports**

**Article 18- (1)** After an inspection, the PSCO shall prepare a report in accordance with MoU procedures, signed also by the master. A copy shall be given to the master; if the master refuses, it shall be left onboard or delivered to the ship's agent. Appeals shall follow Article 20.

(2) Wording of deficiencies shall use the templates in MoU documents.

### **Deficiencies, rectification, and detention**

**Article 19- (1)** The PSCO must be assured that deficiencies identified are or will be rectified.

(2) Deficiencies must be recorded with rule references, and photos uploaded to MoU systems. Photos of rectification are kept by the Port Authority.

(3) In cases of serious deficiencies endangering safety, health, or environment, the PSCO shall detain the ship or suspend the related activity. Such orders remain until compliance is confirmed.

(4) The PSCO shall use IMO and MoU criteria when assessing the need for detention. If deficiencies cannot be rectified promptly, the ship may be allowed to proceed to a repair yard under conditions.

(5) In exceptional cases where the ship is deemed substandard overall, inspections may be suspended until compliance is achieved.

(6) Detentions shall be immediately notified by the Port Authority in writing (including the inspection report) to the flag State, consulate, or nearest diplomatic mission, as well as to the relevant classification society.

(7) These provisions do not affect additional reporting obligations under international conventions.

### **Right of appeal**

**Article 20- (1)** Owners, operators, or flag States may appeal detention decisions. Applications by ship agents are not accepted. Appeals do not suspend detention.

(2) Appeals must be submitted to the Administration within one month of detention.

(3) The PSCO shall inform the master of this right.

(4) If a ship is unduly detained or delayed, the owner/operator may pursue legal action. Burden of proof lies with the owner/operator.

### **Follow-up inspection after detention**

**Article 21- (1)** If deficiencies cannot be corrected at the detention port, the ship may be allowed to proceed to the nearest repair yard selected by the master and approved by the Port Authority, under conditions agreed by the flag State and accepted by the PSCO.

(2) The PSCO shall notify the authorities of the repair yard State and other relevant parties.

(3) Ships that fail to comply with such conditions or bypass the repair yard shall face entry bans under Article 17.

(4) Authorities shall alert other States if such non-compliance is detected.

(5) The Port Authority may permit entry for urgent safety or pollution-prevention reasons.

### **Reporting of deficiencies**

**Article 22- (1)** Pilots must immediately notify the Port Authority if they detect deficiencies during pilotage that endanger safe navigation or pose risks to safety, life, property, or the environment. Failure to report shall result in legal action.

(2) Port Authority staff must also report any such deficiencies detected during duties.

(3) Complaints from persons or entities with legitimate interests regarding living and working conditions onboard shall be investigated. Complainants shall be informed of actions taken.

(4) Port facility operators and others concerned shall also notify the Port Authority of deficiencies.

### **Cooperation**

**Article 23- (1)** The Administration shall ensure necessary cooperation between port authorities and other relevant bodies to provide PSCOs with all required information on

ships.

(2) The Administration shall cooperate with Turkish authorities and with foreign authorities for information sharing.

### **Inspection fees**

**Article 24- (1)** Fees for two or more inspections of the same ship shall be borne by the operator or its representative.

(2) Fees for inspections under Article 17(6) shall be borne by the operator or its representative.

(3) The fee for a second boarding is 18,000 Turkish lira; each subsequent boarding doubles the previous fee. These amounts are annually updated by the revaluation rate under Tax Procedure Law.

(4) Detention continues until all fees are paid.

(5) Fees for services outside working hours at port authorities shall also be borne by the operator or representative, as per relevant legislation.

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## **PART FOUR**

### **Miscellaneous and Final Provisions**

#### **Sanctions**

**Article 25- (1)** In case of violations of this Regulation or breaches of conventions detected during inspections, sanctions under Law No. 4922 and other applicable legislation shall apply.

#### **Repealed regulation**

**Article 26- (1)** The Port State Control Regulation published in the Official Gazette dated 26/3/2006, No. 26120, is hereby repealed.

#### **Transitional provisions**

**Provisional Article 1- (1)** Conditions in Article 6 regarding authorization of PSCOs shall not apply to those already authorized before the entry into force of this Regulation.

**Provisional Article 2- (1)** Detentions prior to entry into force shall not be considered in applying entry bans under Article 17(2).

#### **Entry into force**

**Article 27- (1)** This Regulation enters into force on the date of its publication.

#### **Execution**

**Article 28- (1)** The provisions of this Regulation shall be executed by the Minister of Transport and Infrastructure.