

ANTIGUA AND BARBUDA



THE SHIPPING (PORT STATE CONTROL) REGULATIONS, 2008

STATUTORY INSTRUMENT

2008, No. 32

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ANTIGUA AND BARBUDA

THE SHIPPING (PORT STATE CONTROL) REGULATIONS, 2008

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The Shipping (Port State Control) Regulations made in exercise of the powers contained in section 7 of the Antigua and Barbuda Merchant Shipping Act, 2006.

PART I

GENERAL

1. Short title

These Regulations may be cited as the Shipping (Port State Control) Regulations, 2008.

2. Interpretation

In these Regulations

“Act” means the Antigua and Barbuda Merchant Shipping Act, 2006;

“ADOMS” means the Antigua and Barbuda Department of Marine Services and Merchant Shipping;

“CCSS Code” means the Code of Safety for Caribbean Cargo Ships adopted by the Committee of the Memorandum of Understanding on Port State Control in the Caribbean Region;

“clear grounds” means evidence which in the professional judgement of an inspector warrants a more detailed inspection of a ship, its equipment or its crew including in particular criteria listed in Schedule 1;

“Convention” means one of the following conventions, together with the protocols and amendments to these Conventions and related Codes of mandatory status from time to time in force

- (a) the International Convention on Load Lines, 1966 (LL 66);
- (b) the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
- (c) the International Convention for the Prevention of Pollution from Ships, 1973, and the 1978 Protocol relating to it (MARPOL 73/78);

- (d) the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW);
- (e) the Convention on the International Regulations for Preventing Collision at Sea, 1972 (COLREG 72); and
- (f) the International Convention on Tonnage Measurement of Ships, 1969 and the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO No. 147);

“Convention enactment” means

- (a) the Act; or
- (b) regulations made, or treated as made, under the Act, which implement the Conventions;

“expanded inspection” means an inspection as specified in regulation 7;

“flag administration”, in relation to a ship, means the administration of the State whose flag the ship is entitled to fly;

“inspector” means a person duly authorised by the Minister to carry out inspections required by these Regulations;

“member state” means a State or Territory the maritime authority of which is a party to the MOU;

“more detailed inspection” means an inspection where the ship, its equipment and crew as a whole, or as appropriate, parts of it are subjected, in the circumstances specified in sub-regulation 6(3), to an in-depth inspection covering the ship’s construction, equipment, manning, living and working conditions and compliance with on board operational procedures;

“MOU” means the Memorandum of Understanding on Port State Control in the Caribbean Region, signed in Barbados on 2 February 1996;

“owner” includes, in relation to a ship, an operator, manager, charterer or agent of the ship;

“port authority” means a port authority within the meaning of the Port Authority Act, or if there is no such authority, the person having control of the operation of the port;

“ship” includes hovercraft;

“stoppage of an operation” means a formal prohibition of a ship to continue an operation due to established deficiencies which, individually or together, would render the continued operation hazardous.

PART 11

PROCEDURE FOR PORT STATE CONTROL

3. Application

(1) Subject to sub-regulation (2), this Part applies to the crew of a seagoing ship, and the ship

- (a) in a port in Antigua & Barbuda or at an offshore installation; or
- (b) anchored off such a port or such an installation.

(2) This Part does not apply to

- (a) an Antigua and Barbuda ship;
- (b) a fishing vessel;
- (c) a ship of war;
- (d) a naval auxiliary ship;
- (e) a wooden ship of a primitive build;
- (f) a government ship used for non-commercial purposes; or
- (g) pleasure craft not engaged in trade.

(3) In the case of a ship below 500 gross tonnage to the extent to which a Convention does not apply, an inspector shall, without prejudice to any other powers under a Convention enactment, take the action that is necessary to ensure that the ship is not clearly hazardous to safety, health or the environment. In applying this sub-regulation an inspector shall be guided by Annex 1B to the MOU.

(4) When inspecting a ship pursuant to regulations 5 to 8, the inspector shall not give more favourable treatment to a ship flying the flag of a State which is not a party to a Convention or to the crew of such a ship than that given to a ship flying the flag of a State which is a party to that Convention or to the crew of such a ship.

(5) A power of inspection or detention conferred by a Convention enactment is also exercisable in relation to a ship which

- (a) is at an offshore installation; or

- (b) is anchored off an offshore installation or a port in Antigua and Barbuda where the ship is one to which this Part applies.

(6) Section 384 of the Act applies in relation to a ship as if a reference to proceeding to sea were a reference to proceeding contrary to the detention notice and reference to sending or taking to sea were construed accordingly if

- (a) the ship is a ship to which this Part applies and is detained under a Convention enactment; or
- (b) the master of such a ship is served with a detention notice under such an enactment.

4. Competent authority

For the purposes of this Part,

- (a) the competent authority for Antigua and Barbuda is ADOMS;
- (b) the competent authority for another member state is the national maritime administration maintained by that state for the inspection of ships; and
- (c) the competent authority for a State other than a member state is the authority designated as such by that State.

5. Inspection commitments

(1) ADOMS shall carry out, in every year, inspections corresponding to at least 15% of the number of individual ships to which this Part applies which enter its ports during a representative calendar year.

(2) In selecting ships for inspection, ADOMS shall give priority to the ships in categories set out in Schedule II.

(3) ADOMS shall, to the extent feasible, not inspect ships which has been inspected by the competent authority of another member state within the previous six months, provided that

- (a) the ship is not in a category listed in Schedule II;
- (b) no deficiencies have been reported following a previous inspection; and
- (c) no clear grounds exist for carrying out an inspection.

(4) Sub-regulation (3) does not apply to any of the operational controls specifically provided for in the Convention enactments.

6. Inspection procedure

(1) *In carrying out an inspection referred to in regulation 5, the inspector shall as a minimum*

- (a) *check the certificates and documents listed in Schedule III; and*
- (b) *be satisfied of the hygienic conditions and other overall conditions of the ship, including the engine room and accommodations.*

(2) *The inspector may examine all other relevant certificates and documents which are required to be carried on board in accordance with the Convention enactments.*

(3) *When there are clear grounds for believing, after the inspection referred to in sub-regulations (1) and (2), that the condition of a ship or of its equipment or crew does not substantially meet the relevant requirements of a Convention enactment, the inspector shall carry out a more detailed inspection, including further checking of compliance with on board operational requirements.*

(4) *The inspector shall also observe the relevant procedures and guidelines for the control of ships specified in Schedule IV.*

7. Expanded inspection of certain ships

(1) *Where there are clear grounds for a more detailed inspection of a ship belonging to the categories listed in Section A of Schedule V, an inspector shall carry out an expanded inspection, taking into account the guidelines in Section B of that Schedule.*

(2) *If a ship referred to in sub-regulation (1) is subject to an expanded inspection by the competent authority of a member state, it is not to be subjected to another expanded inspection during a period of 12 months after that expanded inspection by a competent authority of the same or another member state. However, the ship may be subject to the inspection provided for in sub-regulation 6(1) and (2).*

(3) *Subject to sub-regulation (2), in the case of a passenger ship operating on a regular schedule in or out of a port in Antigua and Barbuda, an expanded inspection of the ship shall be carried out before the ship starts operating on the schedule and every 12 months after that by ADOMS, subject to consultation with the competent authority of another member state, where the ship operates to ports in that member state.*

8. Report of inspection to the master

(1) *On completion of an inspection, a more detailed inspection, or an expanded inspection, the inspector shall provide the master of the ship with a document in the form specified in Annex 3 to the MOU, giving the results of the inspection and details of any decisions taken by the inspector, and of corrective action to be taken by the master or owner of the ship.*

(2) In the case of deficiencies warranting the detention of a ship, the document to be given to the master in accordance with sub-regulation (1) shall include information about the future publication of information concerning the detention in accordance with regulation 16.

9. Rectification and detention

(1) The owner of a ship shall satisfy ADOMS that deficiencies confirmed or revealed by an inspection referred to in regulation 6 or 7 are or will be rectified in accordance with the Conventions.

(2) In case of deficiencies which are clearly hazardous to safety, health or the environment, the inspector shall detain the ship, or require the stoppage of the operation in the course of which the deficiencies have been revealed, using powers of detention in Convention enactments as appropriate, or issuing a prohibition notice under the Act, as the case may be.

(3) A detention notice may

- (a) include a direction that a ship shall remain in a particular place, or move to a particular anchorage or berth; and
- (b) specify circumstances when the master of the ship may move the ship from a specified place for reasons of safety or prevention of pollution.

(4) The detention notice or stoppage of an operation shall not be lifted until ADOMS establishes that, subject to necessary conditions, the ship can proceed to sea or the operation can be resumed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat to or harm to the marine environment.

(5) Without prejudice to any other requirement in the Convention enactments, when exercising professional judgment as to whether or not a ship should be detained, the inspector shall apply the criteria set out in Schedule VI.

(6) In exceptional circumstances, where the overall condition of a ship is obviously substandard, the inspector may, in addition to detaining the ship, suspend the inspection of the ship until the responsible parties have taken the steps necessary to ensure that it complies with the relevant requirements of the Conventions.

(7) Without prejudice to any other requirement in the Convention enactments, in the event that an inspection referred to in regulation 6 or 7 gives rise to detention, ADOMS shall immediately inform, in writing, the flag administration or the Consul, or in his or her absence, the nearest diplomatic representative of the State of the flag administration, of all the circumstances in which intervention was deemed necessary. In addition, nominated surveyors or recognized organizations responsible for the issue of the ship's certificates shall also be notified where relevant.

(8) The provisions of these regulations are without prejudice to the additional requirements of the *Conventions concerning notification and reporting procedures* related to Port State control.

(9) When carrying out inspections under these regulations, the inspector shall make all possible efforts to avoid a ship being unduly detained or delayed.

10. ISM Code

(1) Where an inspection reveals that a copy of the document of compliance or the safety management certificate required by the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code) is not on board a ship to which the ISM Code is applicable at the date of inspection, the inspector shall detain the ship.

(2) Notwithstanding the absence of the documentation referred to in sub-regulation (1), the inspector may lift the detention order for the purpose of avoiding port congestion if the inspection reveals no other deficiencies warranting detention by ADOMS. When the detention order is lifted, ADOMS shall immediately alert the competent authorities of the member states.

(3) A ship which proceeds to sea from a port in a member state following release in order to avoid port congestion shall not enter any port in Antigua and Barbuda until the owner has provided evidence to the satisfaction of the competent authority of the member state in which the ship was detained that the ship fully complies with the requirements of the ISM Code.

(4) Notwithstanding the sub-regulation (3) access to a specific port may be permitted in a situation referred to in sub-regulation 14(8).

11. Detention procedure

Regulations 12 and 13 apply in relation to the exercise of the power of detention in any Convention enactment.

12. Arbitration

(1) A master or owner of a ship may give notice to the inspector who issues a detention notice, no later than 21 days after the service of the notice, that the master or owner wishes to have a question with respect to whether there was a valid basis for the detention order referred to an arbitrator for decision.

(2) The giving of the notice does not suspend the operation of the detention notice.

(3) If the master or owner and the inspector do not agree on the choice of arbitrator within five days of the giving of the notice, ADOMS shall appoint an arbitrator to make the decision.

(4) In coming to a decision, the arbitrator shall have regard to other matters not specified in the

detention notice which he or she believes to be relevant as to whether the ship ought to have been detained.

(5) The arbitrator may

- (a) if he or she is of the opinion that there was a valid basis for the detention of the ship, affirm the notice; and
- (b) if he or she is of the opinion that there was no valid basis for the detention of the ship
 - (i) cancel the detention notice, or
 - (ii) affirm the detention notice with the necessary modifications.

(6) A person must not be appointed as an arbitrator under this regulation unless he is

- (a) a person holding a certificate of competency as a master mariner or as a marine engineer officer Class 1, or a person holding a certificate equivalent to any such certificate;
- (b) a naval architect;
- (c) a person who is an Attorney at Law of at least 10 years standing; or
- (d) a person with special experience in shipping matters, the fishing industry, or activities carried on in ports.

(7) An arbitrator acting under this regulation has the powers conferred on an inspector by section 259 of the Act.

13. Compensation

An arbitrator shall order the Minister to pay from the Consolidated Revenue fund compensation for loss suffered in consequence of the detention to the owner of a ship that was the subject of a detention notice if the arbitrator decides

- (a) that there was no valid basis for the detention notice; and
- (b) that there were no reasonable grounds on which the inspector ought to have issued the detention notice.

14. Follow-up to inspections and detention

(1) Where deficiencies referred to in sub-regulation 9(2) cannot be rectified in the port of inspection, the maritime administration maintained in the State in which the port is located may allow the

ship to proceed to the nearest appropriate repair yard available, as chosen by the master of the ship, provided that the conditions determined by the competent authority of the flag administration and agreed by ADOMS are complied with, including conditions that ensure that the ship can proceed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

(2) In the circumstances referred to in sub-regulation (1), ADOMS shall notify the competent authority of the State where the repair yard is situated, the parties referred to in sub-regulation 9(5) and any other authority as appropriate of all the conditions for the voyage.

(3) The notification of the parties referred to in sub-regulation (2) must be in accordance with Annex 2 to the MOU.

(4) Where ADOMS receives notification from the competent authority of another member state in respect of a ship which the authority has allowed to proceed to a repair yard in Antigua and Barbuda ADONIS shall inform the notifying authority of the action it has taken with respect to the repairs.

(5) A ship that was detained in a port in a member state after inspection has revealed deficiencies which are clearly hazardous to safety, health or the environment and that has been allowed by the competent authority in that state to proceed to the nearest appropriate repair yard, but has not complied with the conditions determined by that competent authority or which has not called into the indicated repair yard shall not enter a port within Antigua and Barbuda until the owner provides evidence to the satisfaction of that competent authority that the ship has complied with all applicable requirements of the Conventions.

(6) Where a ship proceeds to sea from a port in Antigua & Barbuda without complying with the conditions determined by ADOMS in accordance with sub-regulation (1), ADOMS shall immediately alert the competent authorities of all the other member states.

(7) Where a ship to which sub-regulation (5) applies is to proceed to a repair yard in Antigua and Barbuda but fails to call into the indicated repair yard, ADOMS shall immediately alert the competent authorities of all the other member states.

(8) Notwithstanding sub-regulation (5), access to a specific port may be permitted by the Minister in the event of force majeure or overriding safety considerations, or to reduce or minimise the risk of pollution or to have deficiencies rectified, provided adequate measures have been implemented by the owner of the master of the ship to ensure safe entry, to the satisfaction of ADOMS.

15. Professional profile of inspectors

(1) Only inspectors who satisfy the criteria specified in Schedule VII may carry out inspections under these regulations.

(2) An inspector who does not possess the required professional expertise must be assisted by a person with the required professional expertise.

(3) No inspector or person assisting an inspector may have a commercial interest either in the port of inspection or in the ships inspected, or be employed by or undertake work on behalf of non-governmental organisations which issue statutory and classification certificates or which carry out the surveys necessary for the issue of those certificates to ships.

(4) An inspector shall carry an identity card issued by ADOMS, which shall include the following information:

- (a) name of the issuing authority;
- (b) full name of the holder of the identify card;
- (c) an up-to-date picture of the holder of the identity card;
- (d) the signature of the holder of the identity card, and
- (e) a statement to the effect that the holder of the identity card is authorised to carry out inspections in accordance with Convention enactments.

16. Reports from pilots and port authorities

(1) A pilot authorised to be engaged in the berthing or un-berthing of a ship to which this Part applies in Antigua and Barbuda or engaged on such a ship bound for a port within a member state shall immediately inform the port authority or ADOMS when he or she learns in the course of normal duties that there are deficiencies which may prejudice the safe navigation of the ship, or which may pose a threat of harm to the marine environment.

(2) A port authority exercising its normal duties that learns that such a ship within its port has deficiencies which may prejudice the safety of the ship or pose an unreasonable threat of harm to the marine environment shall immediately inform ADOMS.

17. Publication of detentions

ADOMS shall publish information bulletins at the end of every 3-month period, concerning ships to which this Part applies that have both been detained during that period and detained more than once during the previous 24 months, including

- (a) the name of the ship;
- (b) the name of the owner of the ship;

- (c) the ship's IMO number;
- (d) the ship's flag state;
- (e) the classification society, where relevant;
- (f) where applicable, the name of another member state which has issued a certificate to the ship in accordance with a Convention on behalf of the flag state;
- (g) the reason for detention; and
- (h) the port and date of detention.

18. Reimbursement of costs

Before detention of a ship is lifted, the owner of a ship shall pay, or shall arrange security acceptable to the Minister for the payment of,

- (a) costs of an inspection which results in the detention of a ship to which this Part applies and a subsequent inspection relating to the deficiencies which led to the detention; and
- (b) costs relating to an inspection carried out by the administration for the purposes of, or in connection with, sub-regulation 14(5).

19. Offences and penalties

(1) Where there is any contravention of a direction made under sub-regulation 9(3) in respect of a ship, the owner and master of the ship each commits an offence, and is liable on summary conviction to a fine of seventy-five thousand dollars.

(2) The owner and the master of a ship each commits an offence and is liable on summary conviction to a fine of seventy-five thousand dollars, if the ship

- (a) fails to proceed to the yard specified under sub-regulation 14(1); or
- (b) enters a port in contravention of sub-regulation 14(5).

(3) A person who obstructs an inspector or a person assisting the inspector commits an offence and is liable on summary conviction to a fine of seventy-five thousand dollars.

(4) A pilot who contravenes sub-regulation 16(1) or a port authority which contravenes sub-regulation 16(2) commits an offence and is liable on summary conviction to a fine of seventy-five thousand dollars.

(5) It is a defence for a person charged under this regulation to prove that the person took all reasonable steps to avoid committing the offence.

PART III

INSPECTION OF CREW FOR FAMILIARITY WITH OPERATIONAL PROCEDURES

20. Inspection of operational procedures

(1) A ship in port in Antigua and Barbuda and an Antigua and Barbuda ship when elsewhere are subject to inspection for the purpose of checking that the master and crew are familiar with essential procedures and operations relating to the safety of the ship.

(2) Section 235 of the Act applies in relation to a ship in a port in Antigua and Barbuda as if, in subsection (1), after the words "articles on board" there were inserted "the familiarity of the crew with essential procedures and operations relating to the safety of their ship."

SCHEDULE I

EXAMPLES OF “CLEAR GROUNDS” FOR A MORE DETAILED INSPECTION

(Regulation 2)

1. Ships in categories set out in Schedule II;
2. A report or notification by another member state;
3. A report or complaint by the master, a crew member, or another person or organization with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or the prevention of pollution, unless ADOMS deems the report or complaint to be manifestly unfounded;
4. The ship has been involved in a collision on its way to the port;
5. The Oil Record Book has not been properly kept;
6. The ship has been accused of a violation of the provisions on discharge of harmful substances or effluents;
7. During examination of the certificates and other documentation, inaccuracies have been revealed;
8. Indications that the crew members are unable to comply with the requirements of the Conventions on the minimum level of training of seafarers;
9. Evidence of cargo or other operations not being conducted safely, or in accordance with IMO guidelines, e.g. the content of oxygen in the inert-gas mains supply to the cargo tanks is above the prescribed maximum level;
10. Failure of the master on an oil tanker to produce the record of the oil discharge monitoring and control system for the last ballast voyage;
11. Absence of an up-to-date muster list, or crew members not aware of their duties in the event of fire or an order to abandon ship.

*NOTE: The identity of a person making a report or complaint under item 3 is not to be made known to the owner of the ship.

SCHEDULE II

SHIPS TO BE CONSIDERED FOR PRIORITY INSPECTION

(Sub-regulation 5(2))

1. *Ships visiting a port in the MOU region for the first time or after an absence of 12 months or more from a port in the MOU region.*
2. *Ships which have been permitted to leave the port of a member state on condition that the deficiencies noted must be rectified within a specified period, upon expiry of the period.*
3. *Ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation pursuant to regulation 16.*
4. *Ships which are in a category for which an expanded inspection is required by regulation 7.*
5. *Ships which have been suspended from their class for safety reasons in the course of the preceding six months.*

SCHEDULE III

LIST OF CERTIFICATES AND DOCUMENTS

(Sub-regulation 6(1))

1. **International Tonnage Certificate (1969);**
2. **Passenger Ship Safety Certificate;**
3. **Cargo Ship Safety Construction Certificate;**
4. **Cargo Ship Safety Equipment Certificate;**
5. **Cargo Ship Safety Radiotelegraphy Certificate;**
6. **Cargo Ship Safety Radiotelephony Certificate;**
7. **Cargo Ship Safety Radio Certificate;**
8. **Exemption Certificate;**
9. **Cargo Ship Safety Certificate;**
10. **Caribbean Cargo Ship Safety Certificate;**
11. **International Certificate of Fitness for Carriage of Liquefied Gases in Bulk;**
12. **Certificate of Fitness for the Carriage of Liquefied Gases in Bulk;**

13. *International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk;*
14. *International Oil Pollution Prevention Certificate;*
15. *International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk;*
16. *International Load Line Certificate (1966);*
17. *International Load Line Exemption Certificate;* 18. *Oil Record Book, Parts I and II;*
19. *Cargo Record Book;*
20. *Minimum Safe Manning Document;*
21. *Certificates of Competency including dangerous goods endorsement;*
22. *Medical Certificates, (see ILO Convention No. 73 concerning Medical Examination of Seafarers);*
23. *Stability information including grain loading information and document of authorisation;*
24. *Copy of Document of Compliance and Certificate issued in accordance with The International Management Code for the Safe Operation of Ships and for Pollution Prevention (IMO Resolution A.741 (18));*
25. *Certificates as to the ship's hull strength and machinery installations issued by the relevant classification society (only required where the ship maintains its class with a classification society);*

SCHEDULE IV

PROCEDURES FOR THE CONTROL OF SHIPS

(Sub-regulation 6(4))

1. *Procedures for Port State Control (IMO Resolution A. 787(19), as amended;*
2. *Principles of Safe Manning (IMO Resolution A.481 (X11)) and Annexes which are Contents of Minimum Safe Manning Document (Annex 1) and Guidelines for the Application of Principles of Safe Manning (Annex 2);*
3. *Procedures for the Control of Ships and Discharges under (Annex 11) to MARPOL 73/78 (IMO Resolution MEPC 26 (23));*

4. The Provisions of the International Maritime Dangerous Goods Code;
5. International Labour Organization (ILO) publication "Inspection of Labour Conditions on Board Ship: Guidelines for Procedure";
6. Annex 1 to the Caribbean MOU Guidelines for Surveyors.

SCHEDULE v

EXPANDED INSPECTION

A. CATEGORIES OF SHIPS SUBJECT TO EXPANDED INSPECTION

(Sub-regulation 7(1))

1. Oil tankers, 5 years or less from the date of phasing out in accordance with MARPOL 73/78, Annex 1, Regulation 13G, i.e.

a crude oil tanker of 20,000 tonnes deadweight and above or a product carrier of 30,000 tonnes deadweight and above, not meeting the requirements of a new oil tanker as defined in Regulation 1(26) of Annex 1 to MARPOL 73/78, will be subject to expanded inspection 20 years after its date of delivery as indicated on the Supplement, Form B, to the IOPP Certificate, or 25 years after that date, if the ship's wing tanks or double-bottom spaces not used for the carriage of oil meet the requirements of Regulation 13G(4) of the Annex, unless it has been reconstructed to comply with Regulation 13F of the same Annex;

an oil tanker as mentioned above meeting the requirements of a new oil tanker as defined in Regulation 1(26) of Annex 1 to MARPOL 73/78 will be subject to expanded inspection 25 years after its date of delivery as indicated on the Supplement, Form B, to the IOPP Certificate, unless it complies with or has been reconstructed to comply with Regulation 13F of that Annex.

2. Bulk carriers, older than 12 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.
3. Passenger ships.
4. Gas and chemical tankers older than 10 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.

B. NON-MANDATORY GUIDELINES FOR EXPANDED INSPECTION OF CERTAIN CATEGORIES OF SHIPS

(Sub-regulation 7(1))

NOTE: To the extent applicable the following items may be considered as part of an expanded inspection. Inspectors must be aware that it may jeopardize the safe execution of certain on-board operations, e.g. cargo operation, if tests having a direct effect thereon, are required to be carried out during such operations.

1. SHIPS IN GENERAL (CATEGORIES IN SECTION A):

- Black-out and start of emergency generator; - Inspection of emergency lighting;
- Operation of emergency fire-pump with two fire hoses connected to the fire main-line;
- Operation of bilge pumps;
- Closing of watertight doors;
- Lowering of one seaside lifeboat to the water;
- Test of remote emergency stop, for example boilers, ventilation and fuel pumps;
- Test of steering gear including auxiliary steering gear;
- Inspection of emergency source of power to radio installations;
- Inspection, and to the extent possible, test of engine-room separator.

2. OIL TANKERS

In addition to the items listed under Item 1, the following items may also be considered as part of the expanded inspection for oil tankers:

- Fixed-deck foam system;
- Fire-fighting equipment in general;
- Inspection of fire dampers to engine room, pump room and accommodation;
- Control of pressure of inert gas and oxygen content thereof;
- Check of the Survey Report File (see Resolution A.744(18)) to identify possible suspect areas requiring inspection.

3. BULK CARRIERS

In addition to the items listed under Item 1, the following items may also be considered as part of the expanded inspection for bulk carriers:

- Possible corrosion of deck machinery foundations;
Possible deformation and/or corrosion of hatch covers;
- Possible cracks or local corrosion in transverse bulkheads;
- Access to cargo holds;
- Check of the Survey Report File, (see IMO Resolution A.744(18)) to identify possible suspect areas requiring inspection.

4. GAS AND CHEMICAL TANKERS

In addition to the items listed under Item 1, the following items can also be considered as part of the expanded inspection for gas and chemical tankers:

- Cargo tank monitoring and safety devices relating to temperature, pressure and ullage;
- Oxygen analysing and explosimeter devices, including their calibration. Availability of chemical detection equipment (bellows) with an appropriate number of suitable gas detection tubes for the specific cargo being carried;
- Cabin escape sets giving suitable respiratory and eye protection, for every person on board (if required by the products listed on the International Certificate of Fitness or Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or Liquefied Gases in Bulk as applicable);
- Check that the product being carried is listed in the International Certificate of Fitness or Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or Liquefied Gases in Bulk as applicable;
- The fixed fire fighting installations on deck, whether foam or dry chemical or other as required by the product carried.

5. PASSENGER SHIPS

In addition to the items listed under Item 1, the following items may also be considered as part of the expanded inspection for passenger ships:

- Testing of fire detection and alarm system;
- Testing of proper closing of fire doors;
- Test of public address system;
- Fire drill where, as a minimum, all sets of fireman's outfits must be demonstrated and part of the catering crew take part;
- Demonstration that key crew members are acquainted with the damage control plan.

Note: Where deemed appropriate the inspection may be continued while the ship is on passage to or from the port in the Antigua and Barbuda, with the consent of the master or operator. Inspectors must not obstruct the operation of the ship, nor must they induce situations that, in the master's judgement could endanger the safety of the passengers, the crews and the ship.

SCHEDULE VI

CRITERIA FOR DETENTION OF A SHIP

(Sub-regulation 9(5))

Introduction

Before determining whether deficiencies found during an inspection warrant detention of the ship involved, the inspector must apply the criteria mentioned below in sections 1 and 2.

Section 3 includes examples of deficiencies that may for themselves warrant detention of the ship involved (see sub-regulation 9(5)).

1. Main Criteria

When exercising professional judgment as to whether or not a ship should be detained, the inspector must apply the following criteria:

Timing:

Ships which are unsafe to proceed to sea must be detained upon the first inspection irrespective of how much time the ship will stay in port.

Criterion:

The ship is detained if its deficiencies are sufficiently serious to merit an inspector returning to be satisfied that they have been rectified before the ship sails.

The need for the inspector to return to the ship is a measure of the seriousness of the deficiencies. However, it does not impose such an obligation for every case. It implies that ADOMS must verify one way or another, preferably by a further visit, that the deficiencies have been rectified before departure.

2. Application of main criteria

When deciding whether the deficiencies found in a ship are sufficiently serious to merit detention the inspector must assess whether:

- (a) the ship has relevant, valid documentation;
- (b) the ship has the crew required in the Minimum Safe Manning Document.

During inspection the inspector must further assess whether the ship and/or crew is able to

- (a) navigate safely throughout the forthcoming voyage;
- (b) safely handle, carry and monitor the condition of the cargo throughout the forthcoming voyage;

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

Where the answer to any of these assessments is negative, taking into account all deficiencies found, the ship must be strongly considered for detention. A combination of deficiencies of a less serious nature may also warrant the detention of the ship.

3. Examples of deficiencies

Note: To assist the inspector in the use of these guidelines, there follows a list of deficiencies, grouped under relevant conventions or Codes, which are considered of such a serious nature that they may warrant the detention of the ship involved. This list is not intended to be exhaustive.

3.1 General

The lack of valid certificates as required by the relevant instruments. However, ships flying the flag of States not party to a Convention or not having implemented another relevant instrument, are not entitled to carry the certificates provided for by the Convention or other relevant instrument. Therefore, absence of the required certificates should not by itself constitute reason to detain these ships; however, in applying the "no more favourable treatment" clause, substantial compliance with the provisions is required before the ship sails.

3.2 Areas under the SOLAS Convention (References are given in brackets)

1. Failure of the proper operation of propulsion and other essential machinery, as well as electrical installations.

2. Insufficient cleanliness of engine room, excess amount of oily-water mixtures in bilges, insulation of piping including exhaust pipes in engine room contaminated by oil, improper operation of bilge pumping arrangements.
3. Failure of the emergency generator, lighting, batteries and switches to operate properly.
4. Failure of the main and auxiliary steering gear to operate properly.
5. Absence, insufficient capacity or serious deterioration of personal life-saving appliances, survival craft and launching arrangements.
6. Absence, non-compliance or substantial deterioration of fire detection system, fire alarms, fire-fighting equipment, fixed fire-extinguishing installation, ventilation valves, fire dampers, quick-closing devices to the extent that they cannot comply with their intended use.
7. Absence, substantial deterioration or failure of proper operation of the cargo deck area fire protection on tankers.
8. Absence, non-compliance or serious deterioration of lights, shapes or sound signals.
9. Absence or failure of the radio equipment for distress and safety communication to operate properly.
10. Absence or failure of navigation equipment to operate properly, taking the provisions of SOLAS Regulation V/12(o) into account.
11. Absence of corrected navigational charts, or all other relevant nautical publications necessary for the intended voyage, taking into account that electronic charts may be used as a substitute for the charts.
12. Absence of non-sparking exhaust ventilation for cargo pump rooms (SOLAS Regulation II-2/59.3.1).

3.3 Areas under the IBC Code (References are given in brackets)

1. Transport of a substance not mentioned in the Certificate of Fitness or missing cargo information (16.2).
2. Missing or damaged high-pressure safety device (8.2.3.).
3. Electrical installations not intrinsically safe or not corresponding to code requirements (10.2.3).
4. Sources of ignition in hazardous locations referred to in 10.2 (11.3.15).
5. Contraventions of special requirements (15).
6. Exceeding of maximum allowable cargo quantity per tank (16.1).
7. Insufficient heat protection for sensitive products (16.6).

3.4 Areas under the IGC Code (References are given in brackets)

1. Transport of a substance not mentioned in the Certificate of Fitness or missing cargo information (18.1).
2. Missing closing devices for accommodations or service spaces (3.2.6).
3. Bulkhead not gastight (3.3.2).
4. Defective air locks (3.6).

5. Missing or defective quick-closing valves (5.6).
6. Missing or defective safety valves (8.2).
7. Electrical installations not intrinsically safe or not corresponding to code requirements (10.2.4).
8. Ventilators in cargo area not operable (12.1).
9. Pressure alarms for cargo tanks not operable (13.4.1).
10. Gas detection plan and/or toxic gas detection plant defective (13.6).
11. Transport of substances to be inhibited without valid inhibitor certificate (17/19).

3.5 Areas under the LOAD LINES Convention

1. Significant areas of damage or corrosion, or pitting of plating and associated stiffening in decks and hull affecting seaworthiness or strength to take local loads, unless proper temporary repairs for a voyage to a port for permanent repairs have been carried out.
2. A recognized case of insufficient stability.
3. The absence of sufficient and reliable information, in an approved form, which by rapid and simple means enables the master to arrange for the loading and ballasting of the ship in such a way that a safe margin of stability is maintained at all stages and at varying conditions of the voyage, and that the creation of any unacceptable stresses in the ship's structure are avoided.
4. Absence, substantial deterioration or defective closing devices, hatch closing arrangements and watertight doors.
5. Overloading.
6. Absence of draft mark or draft mark impossible to read.

3.6 Areas under the MARPOL Convention, Annex I (References are given in brackets)

1. Absence, serious deterioration or failure of proper operation of the oily-water filtering equipment, the oil discharge monitoring and control system or the 15 ppm alarm arrangements.
2. Remaining capacity of slop and/or sludge tank insufficient for the intended voyage. 3. Oil Record Book not available. (20(5)).
4. Unauthorized discharge bypass fitted.

3.7 Areas under the MARPOL Convention, Annex II (References are given in brackets)

1. Absence of the P & A Manual.
2. Cargo is not categorized. (3(4))
3. No cargo record book available. (9(6))
4. Transport of oil-like substances without satisfying the requirements or without an appropriately amended certificate. (14)
5. Unauthorized discharge bypass fitted.

3.8 Areas under the STCW Convention

Number, composition or certificate of crew not corresponding with safe manning document.

3.9 Areas under the ILO Conventions

1. Insufficient food for voyage to next port. (Convention 68 Article 5(2)(a))
2. Insufficiency potable water for voyage to next port. (Convention 68 Article 5(2)(a))
3. Excessively unsanitary conditions on board.
4. No heating in accommodation of a ship operating in areas where temperatures may be excessively low. (Convention 92 Article 8)
5. Excessive garbage, blockage by equipment or cargo or otherwise unsafe conditions in passageways/accommodations. (Convention 134 Article 4).

3.10 Area which may not warrant a detention, but where for example cargo operations have to be suspended

Failure of the proper operation or maintenance of inert gas system, cargo-related gear or machinery are considered sufficient grounds for stopping cargo operation.

3.11 Areas under the CCSS Code

See paragraphs 3.2 and 3.5.

MINIMUM CRITERIA FOR INSPECTORS

SCHEDULE VII

(Sub-regulation 15(1))

1. The inspector must be authorised to carry out port state control by the competent authority of the member state.

2. The inspector

(a) must

(i) have completed a minimum of one year's service as a flag State inspector dealing with surveys and certification in accordance with the Conventions;

(ii) be in possession of

- (a) a certificate of competency as a master, enabling that person to take command of a ship of 1,600 GT or more (see STCW, regulation 11/2);
 - (b) a certificate of competency as chief engineer enabling him to take up that task on board a ship whose main power plant has a power equal or superior to 3,000 KW, (see STCW, regulation III/2); or
 - (c) have passed an examination as a naval architect, mechanical engineer or an engineer related to the maritime fields and worked in that capacity for at least five years; and
 - (iii) have served for a period of not less than five years at sea as officer in the deck or engine-department respectively;
 - (b) must
 - (i) hold a relevant university degree or an equivalent training;
 - (ii) have been trained and qualified at a school for ship safety inspectors; and
 - (iii) have served at least two years as a flag State inspector dealing with surveys and certification in accordance with the Conventions; or
 - (c) where the class or classes of ship are specified, must have successfully completed an approved course for ship safety and port state control inspectors.
3. Ability to communicate orally and in writing with seafarers in the language most commonly spoken at sea.
4. Appropriate knowledge of the provisions of the international conventions, the CCSS Code, national legislation and of the relevant procedures on port state control.

Made the 23rd day of June, 2008.

Baldwin W. Spencer,
Minister responsible for Merchant Shipping and Ship Registration