

MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL IN THE BLACK SEA REGION

The Maritime Authorities of
The Republic of Bulgaria
Georgia
Romania
The Russian Federation
The Republic of Turkey and
Ukraine

Hereinafter referred as to “The Authorities”

Recognizing the need to increase maritime safety and the protection of the marine environment and the importance of improving living and working conditions on board ships;

Recalling the Strategic Action Plan for the Rehabilitation and Protection of the Black Sea, in particular paragraph 38;

Noting with appreciation the progress achieved in these fields, in particular by the International Maritime Organization (IMO) and the International Labour Organisation (ILO);

Mindful that the principal responsibility for the effective application of the standards laid down in international instruments rests upon the authorities of the State whose flag a ship is entitled to fly;

Recognizing nevertheless that effective action by port States is required to prevent the operation of substandard ships;

Recognizing also the need to avoid distorting competition between ports;

Convinced of the necessity, for these purposes, of an improved and harmonized system of port State control and of strengthening co-operation and the exchange of information;

Have reached the following understanding:

Section 1 Commitments

- 1.1** Each Authority will give effect to the provisions of the present Memorandum and the Annexes thereto which constitute an integral part of the Memorandum, and take all necessary steps to ratify instruments relevant for the purposes of this Memorandum.
- 1.2** Each Authority will establish and maintain an effective system of port State control with a view to ensure that, without discrimination as to flag, foreign merchant ships calling at the ports of its State comply with the standards laid down in the relevant instruments defined in section 2.
- 1.3** Each Authority, under the coordination of the Committee established pursuant to section 7.1, will determine an appropriate annual percentage of individual foreign merchant ships, hereinafter referred to as "ships", to be inspected. The Committee will monitor the overall inspection activity and its effectiveness throughout the region. As the target, subject to subsequent review, the Committee will endeavour to attain a regional annual inspection rate of 75% of the total number of individual ship visits in the region.

- 1.4** Each Authority will consult, co-operate and exchange information with the other authorities in order to further the aims of the Memorandum

Section 2 Relevant Instruments

- 2.1** For the purposes of the Memorandum “relevant instruments” are, together with the Protocols and amendments to these instruments and related codes of mandatory status in force, the following instruments:

- .1 The International Convention on Load Lines, 1966 (Load Lines 66);
- .2 The International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
- .3 The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78);
- .4 The International Convention on Standards of Training Certification and Watch keeping for Seafarers, 1978 (STCW 78);
- .5 The Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREG 72);
- .6 The International Convention on Tonnage Measurement of Ships, 1969 (TONNAGE 69);
- .7 The Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147);
- .8 The Maritime Labour Convention, 2006 (MLC, 2006);
- .9 The International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001;
- .10 The Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended (CLC PROT 1992);
- .11 The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (BUNKERS 2001);
- .12 The Nairobi International Convention on the Removal of Wrecks, 2007 (NAIROBI WRC 2007); and
- .13 The International Convention for the Control and Management of Ships’ Ballast Water and Sediments, 2004 (BWM 2004).

- 2.2** With respect to the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147) and MLC, 2006, each Authority will apply the procedures referred to in Annex 2.

- 2.3** Each Authority will apply those relevant instruments which are in force and to which its State is a Party. In case of amendments to a relevant instrument, each Authority will apply those amendments which are in force and which its State has accepted. An instrument so amended will then be deemed to be the “relevant instrument” for that Authority.

- 2.4** In applying a relevant instrument, for the purpose of port State control, the Authorities will ensure that no more favourable treatment is given to ships entitled to fly the flag of a non-party to that instrument and apply the procedures specified in Annex 1.
- 2.5** In the case of ships below 500 gross tonnage, the Authorities will apply those requirements of the relevant instruments which are applicable and will to the extent that a relevant instrument does not apply take such action as may be necessary to ensure that those ships are not clearly hazardous to safety, health or the environment. In case of ships below size the Authorities will apply the procedures specified in Annex 1.

Section 3 Inspection Procedures, Rectification and Detention

- 3.1.1** In implementing the Memorandum, the Authorities will carry out inspections, which will consist of at least a visit on board a ship in order to check the certificates and documents referred to in the Manual, and furthermore satisfy themselves 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.
- 3.1.2** In the absence of valid certificates, or if there are clear grounds for believing that the crew or the condition of the ship or its equipment does not substantially meet the requirements of a relevant instrument, or the master or crew are not familiar with essential shipboard procedure relating to the safety of ships or the prevention of pollution, a more detailed inspection will be carried out, including further checking of compliance with on board operational requirements. Inspection type and clear grounds are specified in Annex 3.
- 3.2.1** Nothing in these procedures should be construed as restricting the powers of the Authorities to take measures within their jurisdiction in respect of any matter to which the relevant instruments relate.
- 3.2.2** The relevant procedures and guidelines for control of ships specified in the Port State Control Procedures contained in the Manual shall also be applied.
- 3.3** In order to determine priority for inspection, and interval between its inspections, and the scope of the inspection each ship in the information system will be attributed a ship risk profile, in accordance with Annex 4.
- 3.4** In selecting ships for inspection, the Authorities will determine their priority from the selection scheme indicated in Annex 5
- 3.5.1** Inspections will be carried out only by persons, duly authorized by the Authority to carry out port State inspections and responsible to that authority, who will fulfil the requirements of paragraph 3.5.3 and the qualification criteria specified in Annex 6.
- 3.5.2** The PSCO carrying out Port State control may be assisted by a person with the required expertise when such expertise cannot be provided by the Authority.
- 3.5.3** The PSCO carrying out port State control and the person assisting him shall have no commercial interest either in the port of inspection or in the ships inspected, nor shall PSCO be employed by or undertake work on behalf of non-governmental organizations which issue statutory and classification certificates or which carry out the surveys necessary for the issue of those certificates to ships.

- 3.5.4** Each PSCO shall carry a personal document in the form of an identity card issued by his Authority indicating that the inspector is authorized to carry out inspections.
- 3.6.1** The Authorities will ensure that, on the conclusion of an inspection the master of the ship is provided with a report of inspection, giving the result of the inspection and details of any action to be taken.
- 3.6.2** The Authority shall be satisfied that any deficiencies confirmed or revealed by the inspection are rectified.
- 3.6.3** In the case of deficiencies, which are clearly hazardous to safety, health or the environment the Authority will detain the ship or will stop the operation in the course of which the deficiencies have been revealed. The detention order or the stoppage of the operation shall not be lifted until the hazard is removed, except under the conditions provided for in 3.8 below.
- 3.6.4** When exercising his professional judgement as to whether or not a ship should be detained, the PSCO shall be guided by the criteria set out in a Guideline
- 3.7** In the event that a ship is detained the Authority will notify Flag State Administration¹ in writing, which includes report of inspection. Where relevant, the organization responsible for the issue of the certificates shall also be informed. The parties will also be notified in writing of release of detention.

In the case of a detention related to a non-compliance with the MLC, 2006, the Authority will, in addition to notifying the flag State, immediately notify the appropriate ship owners' and seafarers' organizations in the port State in which the inspection was carried out.

- 3.8** Where deficiencies which caused a detention as referred to in 3.6.3 cannot be remedied in the port of inspection, the Authority may allow the ship concerned to proceed to an agreed port or repair yard available (or in case of detainable deficiencies in accordance with MLC, 2006, to the port where the Rectification Action Plan is to be implemented) in accordance with a Guideline.

Where the decision to send a ship to a repair yard is due to a lack of compliance with the IMO Resolution A.1049 (27), either with respect to ship's documentation or with respect to ship's structural failures and deficiencies, the Authority may require that the necessary thickness measurements are carried out in the port of detention as set out in Guidelines for PSCOs before the ship is allowed to sail.

If the vessel is detained because it is not equipped with a functioning voyage data recorder system, when its use is compulsory, and this deficiency cannot be readily rectified in the port of detention, the authority may allow the ship to proceed to the appropriate repair yard or port nearest to the port of the detention where it shall be readily rectified or require that the deficiency is rectified within a maximum period of 30 days.

- 3.9** If a ship referred to in paragraph 3.8 proceeds to sea without complying with the conditions agreed to by the Authority of the port of inspection:
- .1 that Authority will immediately alert the next port, if known, the flag State and all other Authorities it considers appropriate; and

¹ Refer to MSC/Circ. 781 MEPC 6/Circ. 2 "National contact points of Members for safety and pollution prevention" (Annex 1 and 2). When a valid contact point is not available the nearest diplomatic representative should be informed.

- .2 the ship will be detained at any port of the Authorities, subject to national rules and regulation, which have accepted the Memorandum, until the company has provided evidence to the satisfaction of the Authority of the port State, that the ship fully complies with all applicable requirements of the relevant instruments.
- 3.10** If a ship referred to in paragraph 3.8 does not call at the nominated repair port, the Authority of the repair port will immediately alert the flag State and detaining port State, which may take appropriate action, and notify any other Authorities it considers appropriate.
- 3.11** The provisions of section 3.7 and 3.8 are without prejudice to the requirements of relevant instruments or procedures established by international organizations concerning notification and reporting procedures related to port State control.
- 3.12** When exercising control under the Memorandum, the Authorities will make all possible efforts to avoid unduly detaining or delaying a ship. Nothing in the Memorandum affects right created by provisions of relevant instruments relating to compensation for undue detention or delay.
- 3.13** In case the master, owner or agent of the ship notifies the port State control authorities prior to or immediately upon arrival of the vessel at the port, of any damage, breakdown or deficiency to the ship, its machinery or equipment, which is intended to be repaired or rectified before the ship sails from that port, detention should be recorded only if deficiencies justifying detention are found after the master has given notification that the ship was ready for inspection. The same procedure applies when the port State control authorities are notified that the ship is scheduled to be surveyed at the port with respect to flag, statutory or class requirements.
- 3.14** The owner or the operator of a ship will have the right of appeal against a detention decision to higher administrative Authority or to the court of competent jurisdiction, according to the law in each country. However, an appeal shall not cause the detention to be suspended.
- 3.15** Should an inspection reveal deficiencies warranting detention of a ship all costs relating to follow up inspections shall be covered by the ship-owner or the operator. The detention shall not be lifted until full payment has been made or a sufficient guarantee has been given for the reimbursement of the costs.
- 3.16.1** Each Authority is recommended to take measures, as appropriate within the constraints of its laws and regulations, including refusal of access to its ports and anchorages, against foreign ships with multiple detentions, and following occurrences by adhering procedures and conditions as set out in a Guideline:
- .1 a foreign ship referred to in Section 3.6.3 and Section 3.8 which proceeds to sea without complying with the conditions determined by the Authority in the port of inspection; or
- .2 a foreign ship referred to in Section 3.8 which refuses to comply with the applicable requirements of the relevant instruments by not calling into the indicated repair yard.
- 3.16.2** Access to a specific port may be permitted by the relevant authority of that port State in the event of force majeure or overriding safety considerations, or to reduce or minimize the risk of pollution, provided that adequate measures to the satisfaction of the authority of such State have been implemented by the owner, the operator or the master of the ship to ensure safe entry.

Section 4 Provision of Information

- 4.1** Each Authority will report on its inspections under the Memorandum and their results, and provide individual ship visit data in accordance with the procedures specified in the Manual and decisions of the Committee mentioned in section 7.1.
- 4.2** The Authorities will provide information to the Memorandum Secretariat established pursuant to Section 7.5 on their national arrangements for PSC in accordance with the content and procedures agreed by the Committee mentioned in section 7.1.
- 4.3** The Black Sea Information System (BSIS) is established in the Russian Federation for the purpose of exchanging information on port State inspections, in order to:
- .1 make available to Authorities information on inspection of ships in other regional ports to assist them in their selection of foreign flag ships to be inspected and in the exercise of port State control on selected ships; and
 - .2 provide effective information exchange facilities regarding port State control in the region.
- 4.4** The Black Sea Information System shall provide for information exchange with the information system of the other regional agreements.

Section 5 Operational Violations

The authorities will upon the request of another Authority endeavour to secure evidence to suspected violations of the requirements on operational matters of Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972 and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, relating thereto. In case of suspected violations involving the discharge of harmful substances, an Authority will, upon the request of another Authority, visit in port the ships of such a violation in order to obtain information and, where appropriate, to take a sample of any alleged pollutant. Procedures for investigations into contravention of discharge provisions are listed in Procedures for Investigations Under MARPOL set out in the Manual. In cases referred to in this section the requesting Authority should state that the flag State of the ship has already been notified of the alleged violation.

Section 6 Training Programmes and Seminars

The Authorities will endeavour to establish appropriate training programmes and seminars.

Section 7 Organization

- 7.1** A Committee composed of a representative of each of the Authorities that are party to the Memorandum will be established. A representative of the International Maritime Organization and of the International Labour Organisation will be invited to participate without vote in the work of the Committee. Representatives of any other Organization or Authority, which the Committee may deem appropriate, may be accorded the status of observer without vote.
- 7.2** The Committee will meet once a year and at such other times as it may decide.
- 7.3** The Committee will:
- .1 carry out the specific tasks assigned to it under the Memorandum;

- .2 promote by all means necessary, including seminars for surveyors, the harmonization of procedures and practices relating to the inspection, rectification, detention and the application of section 2.4;
- .3 develop and review guidelines for carrying out inspections under the Memorandum;
- .4 develop and review procedures, including those related to the exchange of information;
- .5 keep under review other matters relating to the operation and the effectiveness of the Memorandum;
- .6 promote by all means necessary the harmonization of the operation and effectiveness of this Memorandum with those of similar agreements for other Regions;
- .7 adopt the budget and establish the contributions of every Party to the Memorandum in accordance with adopted procedure; and
- .8 establish, if necessary, working groups.

7.4 The Committee will take its decisions acting on a two-thirds majority.

7.5 A Secretariat will be established in accordance with the following principles:

- .1 the Secretariat is a non-profit making body located in Istanbul, Turkey;
- .2 the Secretariat will be totally independent from any maritime administration or organization;
- .3 the Secretariat will be governed by and be accountable to the Committee;
- .4 the Secretariat will have a bank account into which all dues and contributions are made;
- .5 the Secretariat will operate from the established bank account in accordance with the budget determined by the Committee.

7.6 The Secretariat, acting under the guidance of the Committee in accordance with the terms of reference defined in Annex 7 and within the limits of the resources made available to it, will:

- .1 prepare meetings, circulate papers and provide such assistance as may be required to enable the Committee to carry out its functions;
- .2 facilitate the exchange of information and prepare reports as may be necessary for the purposes of Memorandum;
- .3 carry out such other work as may be necessary to ensure the effective operation of the Memorandum.

Section 8 Financial Mechanism

8.1 The costs for running the Secretariat and the BSIS are financed by: the financial contribution of every Party to the Memorandum; if possible, gifts and subventions by donor countries or organizations.

- 8.2** Financial contributions to the costs for running the Secretariat and the BSIS of Parties to the Memorandum are to be settled in conformity with the decisions and procedures adopted by the Committee.

Section 9 Amendments

- 9.1** Any Authority, which has accepted the Memorandum, may propose amendments to the Memorandum.
- 9.2** In the case of proposed amendments to sections of the Memorandum the following Procedure will apply: the proposed amendment will be submitted through the Secretariat for consideration by the Committee; amendments will be adopted by a two-thirds majority of the representatives of the Authorities present and voting in the Committee. If so adopted, an amendment will be communicated by the Secretariat to the Authorities for acceptance.
- 9.3** The amendments of section 2.1 are adopted by a two-thirds majority of the representatives of the Authorities present and voting, which are party to the new Convention proposed for inclusion as “relevant instrument”.
- 9.4** An amendment will be deemed to have been accepted either at the end of a period of six months after adoption by the representatives of the Authorities in the Committee or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption, unless within the relevant period an objection is communicated to the Secretariat by an Authority.
- 9.5** An amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee.
- 9.6** In the case of proposed amendments to Annexes of the Memorandum the following procedure will apply: the proposed amendment will be submitted through the Secretariat for consideration by the Authorities; the amendment will be deemed to have been accepted at the end of a period of three months from the date, on which it has been communicated by the Secretariat unless an Authority requests in writing that the amendment should be considered by the Committee. In the latter case the procedure specified in 9.2 will apply; the amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the Authorities.
- 9.7** The Manual will be amended by the following procedure:
- .1 the proposed amendment to the parts other than those factual information/data will be submitted through or by the Secretariat for consideration by the Authorities;
 - .2 the amendment will be deemed to have been accepted at the end of a period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption; and
 - .3 the amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the Authorities the representatives of the Authorities in the Committee at the time of adoption.

Section 10 Administrative Provisions

- 10.1** The Memorandum is without prejudice to the rights and obligations under any international agreement.
- 10.2** The Memorandum remains open for signature at the Headquarters of the Secretariat located in İstanbul Turkey from April 7, 2000 till October 7, 2000. Authorities meeting the requirements specified in Annex 8 may become parties to the Memorandum by signature without any reservations as to acceptance, or signature subject to acceptance, followed by acceptance.
- 10.3** Acceptance or accession will be effected by a written communication by the Authorities to the Secretariat.
- 10.4** This Memorandum will enter into force individually for each Authority on the date duly notified to the Secretariat. The Memorandum is deemed as having entered into force on the date of entry into force for the third individual Authority.
- 10.5** The Secretariat will inform the Authorities who have signed the Memorandum of any signature or written communication, or of accession and of the date, on which such event has taken place.
- 10.6** Any Maritime Authority or Organization wishing to participate as an observer will submit in writing an application to the Committee and will be accepted as an observer subject to the unanimous consent of the representatives of the Authorities present and voting at the Committee meeting.
- 10.7** Any Authority may withdraw from the Memorandum by providing the Committee with 60 days notice in writing.

The official and working language of the Memorandum is the English language.

Signed at Istanbul, this seventh day of April of the year two thousand, in one original in the English language.

ANNEXES TO THE MEMORANDUM

Annex 1	Ships of non-Parties and below convention size
Annex 2	Maritime Labour Convention
Annex 3	Inspection Type and Clear Grounds
Annex 4	Ship Risk Profile
Annex 5	Inspection and Selection Scheme
Annex 6	Minimum Criteria for Port State Control Officers
Annex 7	Terms of Reference of the Secretariat
Annex 8	Qualitative Criteria for Adherence to the Memorandum

Annex 1 Ship non-Parties and below convention size

1 Ships of non-Parties

Ships entitled to fly the flag of a State which is not a Party to a relevant instrument and thus not provided with certificates representing prima facie evidence of satisfactory conditions on board, or manned with crew members who do not hold valid STCW certificates, will receive a more detailed or, as appropriate, expanded inspection. In making such an inspection the Port State Control Officer will follow the same procedures as provided for ships to which the relevant instruments are applicable.

If the ship or the crew has some alternative form of certification, the Port State Control Officer, in making this inspection, may take the form and content of this documentation into account. The conditions of such a ship and its equipment and the certification of the crew and the flag Administration's minimum manning standard must be compatible with the aims of the provisions of the relevant instruments; otherwise the ship must be subject to such restrictions as are necessary to obtain a comparable level of safety and protection of the marine environment.

2 Ships below convention size.

2.1 To the extent a relevant instrument is not applicable to a ship below convention size, the Port State Control Officer's task will be to assess whether the ship is of an acceptable standard in regard to safety, health or the environment. In making that assessment, the Port State Control Officer will take due account of such factors as the length and nature of the intended voyage or service, the size and type of the ship, the equipment provided and the nature of the cargo.

2.2 In the exercise of his functions the Port State Control Officer will be guided by any certificates and other documents issued by or on behalf of the flag State Administration. The Port State Control Officer will, in the light of such certificates and documents and in his general impression of the ship, use his professional judgement in deciding whether and in what respects the ship will be further inspected. When carrying out a further inspection the Port State Control Officer will, to the extent necessary, pay attention to the items listed in 3 of this Annex. The list is not considered exhaustive but is intended to give an exemplification of relevant items.

3 Items of general importance

3.1 Items related to the conditions of assignment of load lines:

- .1 weather tight (or watertight as the case may be) integrity of exposed decks;
- .2 hatches and closing appliances;
- .3 weather tight closures to openings in superstructures;
- .4 freeing arrangements;
- .5 side outlets;
- .6 ventilators and air pipes;
- .7 stability information.

3.2 Other items related to the safety of life at sea:

- .1 life saving appliances;
- .2 fire fighting appliances;
- .3 general structural conditions (i.e. hull, deck, hatch covers, etc.);
- .4 main machinery and electrical installations;
- .5 navigational equipment including radio installations.

3.3 Items related to the prevention of pollution from ships:

- .1 means for the control of discharge of oil and oily mixtures e.g. oily water separating or filtering equipment or other equivalent means (tank(s) for retaining oil, oily mixtures, oil residues);
- .2 means for the disposal of oil, oily mixtures or oil residues;
- .3 presence of oil in the engine room bilges;
- .4 means for the collection, storage and disposal of garbage.

3.4 In the case of deficiencies which are considered hazardous to safety, health or the environment the Port State Control Officer will take such action, which may include detention as may be necessary, having regard to the factors mentioned in 2.1 of this Annex, to ensure that the deficiency is rectified or that the ship, if allowed to proceed to another port, does not present a clear hazard to safety, health or the environment.

Annex 2 Maritime Labour Convention, 2006 or Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) and ILO147 Protocol, 1996.**1 Maritime Labour Convention, 2006 (MLC, 2006), if applicable**

1.1 Inspection regarding certificates of competency is dealt with in the Guidance on MLC, 2006. In the exercise of control of the MLC, 2006, the Port State Control Officer (PSCO) will decide, on the basis of the clear grounds listed in **Annex 3** and his/her professional judgement, whether the ship will receive a more detailed inspection. All complaints not manifestly unfounded regarding conditions on board will be investigated thoroughly and action taken as deemed necessary. The PSCO will also use his/her professional judgement to determine whether the conditions on board give rise to a hazard to the safety or health of the crew which necessitates the rectification of conditions and may, if necessary detain the ship until appropriate corrective action is taken.

1.2 Implementation of PSC procedures which are specific to MLC, 2006, are set out in the Guidelines on Maritime Labour Convention.

2 Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) and ILO 147 Protocol, 1996, if applicable.

2.1 Inspections on board ships under ILO 147 and ILO 147 Protocol, 1996 will relate to:

- .1 the Minimum Age Convention, 1973 (No. 138); or
the Minimum Age (Sea) Convention (Revised), 1936 (No. 58);
- .2 the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (Articles 4 and 7);
- .3 the Accommodation of Crews Convention (Revised), 1949 (No. 92);
- .4 the Food and Catering (Ships' Crews) Convention, 1946 (No. 68) (Article 5);
- .5 the Accommodation and Crews (Supplementary Provisions) Convention, 1970 (No. 133).

Inspection regarding certificates of competency is dealt with in a Guideline in the exercise of control of the conventions listed above, the port State control officer will decide, on the basis of the clear grounds listed in **Annex 3** and his/her professional judgement, whether the ship will receive a more detailed inspection. All complaints regarding conditions on board will be investigated thoroughly and action taken as deemed necessary. The PSCO will also use his/her professional judgement to determine whether the conditions on board give rise to a hazard to the safety or health of the seafarers which necessitates the rectification of conditions and may, if necessary, detain the ship until appropriate corrective action is taken. Reporting procedures for detentions are provided in Section 3.7 of the Memorandum.

2.2 The conventions relevant in the framework of the provisions of 2.3 of this Annex are:

- .1 the Seamen's Articles of Agreement Convention, 1926 (no. 22);
- .2 the Repatriation of Seamen Convention, 1926 (no. 23);
- .3 the Ship owners' Liability (Sick and Injured Seamen) Convention, 1936 (no.55); or
the Sickness Insurance (Sea) Convention, 1936 (no. 56); or
the Medical Care and Sickness Benefits Convention, 1969 (no. 130);

- .4 the Freedom of Association and Protection of the Right to Organise Convention, 1948 (no. 87);
- .5 the Right to Organise and Collective Bargaining Convention, 1949 (no. 98);
- .6 the Seafarers' Identity Documents Convention, 1958 (no. 108);
- .7 the Workers' Representatives Convention, 1971 (no. 135);
- .8 the Health Protection and Medical Care (Seafarers) Convention, 1987 (no.164);
- .9 the Repatriation of Seafarers Convention (Revised), 1987, (no. 166).

2.3 If the port State control officer receives a report, notification or complaint to the effect that the standards laid down in the conventions listed in 2.2 of this Annex are not met, the matter will be reported by the Authority, if possible with evidence, to the flag State Administration for further action, with a copy to the ILO.

2.4 Those parts of the ILO publication "Inspection of Labour Conditions on board Ship: Guidelines for procedure" which deal with:

- .1 control procedures for national flag ships;
- .2 vocational training;
- .3 officers' certificates of competency (regulated under STCW);
- .4 hours of work and manning (regulated under STCW);

are not considered as relevant provisions for the inspection of ships but as information to port State control officers only.

Annex 3 Inspection Type and Clear Grounds

The type of inspection to be carried out is determined as shown below:

Category of inspection	Ship Risk Profile	Inspection Type		
		Initial	More detailed	Expanded
Periodic	HRS	NO	NO	YES
	SRS	YES	If clear grounds are found	If the ship is of a risk ship type ¹ and more than 12 years old
	LRS			
Additional due to overriding or unexpected factor	All	NO	YES	According to the professional judgement of the PSCO if HRS or SRS/LRS of a risk ship type ¹ and more than 12 years old

¹ risk ship types are Chemical tanker, Gas carrier, Oil tanker, Bulk carrier, Passenger ship, Ro-Ro cargo ship and NLS tanker

Initial inspection:

1 An initial inspection will consist of a visit on board the ship in order to:

- check the certificates and documents listed in the Manual;
- check that the overall condition and hygiene of the ship including:
 - navigation bridge
 - accommodation and galley
 - decks including forecastle
 - cargo holds/area
 - engine room

meets generally accepted international rules and standards;

- verify, if it has not previously been done, whether any deficiencies found by an Authority at a previous inspection have been rectified in accordance with the time specified in the inspection report.

More Detailed inspection:

2 A more detailed inspection will be carried out whenever there are clear grounds for believing, during an initial inspection, that the condition of the ship or of its equipment or crew or the working and living conditions of seafarers does not substantially meet the relevant requirements of a relevant instrument. Clear grounds exist when a Port State Control Officer finds evidence, which in his professional judgement warrants a more detailed inspection of the ship, its equipment or its crew. The absence of valid certificates or documents is considered a clear ground. Other examples of clear grounds are set out in paragraph 5.

3 A more detailed inspection will include an in-depth examination in:

- the areas where clear grounds are established
- the areas relevant to any overriding or unexpected factors
- other areas at random from the following risk areas:

1. Documentation
2. Structural condition
3. Water/Weather tight condition
4. Emergency systems
5. Radio communication
6. Cargo operations
7. Fire safety
8. Alarms
9. Living and working condition
10. Navigation equipment
11. Lifesaving appliances
12. Dangerous Goods
13. Propulsion and auxiliary machinery
14. Pollution prevention

- 4 The more detailed inspection will take account of the human elements covered by ILO, ISM and STCW and include operational controls as appropriate.

Clear Grounds

- 5 In applying category and type of inspection above examples of “clear grounds” for a more detailed inspection include following:
- .1 ships with overriding or unexpected factors as listed in Annex 5.
 - .2 during examination of the certificates and documents referred to in the Manual, inaccuracies have been revealed or the documents have not been properly kept, updated, or they have been falsely maintained;
 - .3 indications that the relevant crew members are unable to communicate appropriately with each other, or with other persons on board, or that the ship is unable to communicate with the shore-based authorities either in a common language or in the language of those authorities;
 - .4 a certificate has been fraudulently obtained or the holder of a certificate is not the person to whom that certificate was originally issued;
 - .5 the ship has a master, officer or rating holding a certificate issued by a country which has not ratified the STCW Convention;
 - .6 evidence of cargo and other operations not being conducted safely or in accordance with the IMO guidelines;
 - .7 failure of the master of an oil tanker to produce the record of the oil discharge monitoring and control system for the last ballast voyage;
 - .8 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 the ship;

- .9 the emission of false distress alerts not followed by proper cancellation procedures;
- .10 the absence of principal equipment or arrangements required by the conventions;
- .11 evidence from the Port State Control Officer's general impressions and observations that serious hull or structural deterioration or deficiencies exist that may place at risk the structural, watertight or weather tight integrity of the ship;
- .12 information or evidence that the master or crew is not familiar with essential shipboard operations relating to the safety of ships or the prevention of pollution, or that such operations have not been carried out;
- .13 the absence of a table of shipboard working arrangements or records of hours of work or rest of seafarers;
- .14 the ship has changed flag for the purpose of avoiding compliance with the MLC or the ship flies the flag of a State that has not ratified the MLC, 2006;
- .15 there is a complaint alleging that specific working and living conditions on the ship do not conform to the requirements of the MLC, 2006 or following investigation of an on shore complaint;
- .16 the working and living conditions on the ship do not conform to the requirements of the MLC.

Expanded Inspection:

6 An expanded inspection will be carried out on the following ship types and ship risk group and may include a more detailed inspection whenever there are clear grounds.

- .1 Chemical Tanker, Gas Carrier, Oil Tanker, Bulk Carrier, Passenger Ship, Ro-Ro Cargo Ship and NLS Tanker **which are more than 12 years old.**
- .2 High Risk Ship (HRS)

Guidance on type of inspections is provided in the Manual.

7 An expanded inspection will include a check of the overall condition, including the human element where relevant, in the following risk areas:

- .1 Documentation
- .2 Structural condition
- .3 Water/Weathertight condition
- .4 Emergency systems
- .5 Radio communication
- .6 Cargo operations including equipment
- .7 Fire Safety
- .8 Alarms
- .9 Living and working conditions
- .10 Navigation equipment
- .11 Life saving appliances
- .12 Dangerous Goods
- .13 Propulsion and auxiliary machinery
- .14 Pollution prevention

and subject to their practical feasibility or any constraints relating to the safety of persons, the ship or the port, verification of the specific items in these risk areas listed for each ship type in a Guideline must be part of an expanded inspection. The inspector must use professional judgement to determine the appropriate depth of examination or testing of each specific item.

- 8** Inspectors must be aware that the safe execution of certain on-board operations, e.g. cargo handling, could be jeopardised by tests carried out during such operation.
- 9** The expanded inspection will take account of the human elements covered by ILO, ISM and STCW and include operational controls as appropriate.

Annex 4 Ship Risk Profile

- 1 All ships in the information system of BSIS will be assigned either as high, standard or low risk based on generic and historic parameters.
- 2 High Risk Ships (HRS) are ships which meet criteria to a total value of 5 or more weighting points.
- 3 Low Risk Ships (LRS) are ships which meet all the criteria of the LRS parameters and have had at least one inspection in the previous 36 months.
- 4 Standard Risk Ships (SRS) are ships which are neither LRS nor HRS.

Ship Risk Profile

Parameter		Profile					
		High Risk Ship (HRS) When sum of the weighting points ≥ 5		Standard Risk Ship (SRS)	Low Risk ship (LRS)		
		Criteria	Weighting Points	Criteria	Criteria		
Type of Ship		Chemical tanker Gas carrier Oil tanker Bulk carrier Passenger ship Ro-Ro cargo ship NLS tanker	1	-	Neither LRS nor HRS		
Age of Ship		All types	>12 ≤ 24	1		-	
			≥25 y	2		-	
Flag		High		1		-	
		Very High		2		-	
		Deficiency Index ²		-		-	Low
		IMO-Audit ³		-		-	Yes
Recognized Organization		RO of BS MOU ⁴		-		-	Yes
		RO related Detention Index ⁵		High		1	-
		RO related Detainable deficiency Index ⁶		-		-	Low
Company		Detention Index ⁷		High		2	-
		Deficiency Index ⁸		-		-	Low
Ship Historic Parameters	Detentions	Number of detentions within previous 36 months		2 detentions		1	No detention
				3 or more detentions		2	
	Deficiencies	Deficiency Index ⁹		Very High		1	Low

1 Calculation of the Flag Detention Index Level

Flag Detention index is the ratio of the cumulative sum of the number of detentions to the cumulative sum inspections of all ships in a Flag's fleet within previous 36 months.

This index is compared with the BS MOU regional average detention index which is the ratio of the cumulative sum of the number of detentions to the cumulative number of inspections within the previous 36 months to determine the level of the detention index of a Flag's compared to the regional detention index.

Flag detention index /Regional average detention index	Flag Detention Index Level
> 1.1 and \leq 2.0	High
> 2.0	Very High

Detention index level for flags with one detention within the previous 36 months will not be calculated. There is no inspection limit for the determination of a Flag's detention index level, rather detention index level will be attained to the Flags more than one detentions within the previous 36 months.

The calculation is made daily on the basis of a running 36-months period.

2 Calculation of the Flag Deficiency Index Level

Flag deficiency index is the ratio of the cumulative sum of the number of deficiencies to the cumulative sum of inspections all ships in a Flag's fleet within previous 36 months.

This index is compared with the BS MOU regional average deficiency index which is the ratio of the cumulative sum of the number of deficiencies to the cumulative number of inspections within the previous 36 months to determine level of the deficiency index of a Flag's compared to the regional deficiency index.

Flag deficiency index /Regional average deficiency index	Flag Deficiency Index Level
< 1.0	Low

The calculation is made daily on the basis of a running 36-months period.

3 IMO Audit

The status of **IMO Audit** will be based on up-dated information obtained by the BS MOU Secretariat.

4 RO of the BSMOU

Recognized Organizations of BS MOU are those recognized by at least one member Authority of the BS MOU, a list of which is provided on the web-site.

5 Calculation of the RO Related Detention Index Level

RO related Detention index is the ratio of the cumulative sum of the number of RO related detentions to the cumulative sum of the RO inspections of all ships in a RO's fleet within previous 36 months.

This index is compared with the BS MOU regional average RO related detention index which is the ratio of the cumulative sum of the number of RO related detentions to the cumulative number of RO inspections within the previous 36 months to determine level of a RO's RO related detention index compared to the regional RO detention index.

RO related detention index/ Regional average RO detention index	RO related Detention Index Level
> 1.1	High

6 Calculation of the RO Related Detainable Deficiency Index Level

RO related detainable deficiency index is the ratio of the cumulative sum of the number of RO detainable deficiencies to the cumulative sum of inspections of all ships in a RO's fleet within previous 36 months.

This index is compared with the BS MOU regional average RO related detainable deficiency index which is the ratio of the cumulative sum of the number of RO related detainable deficiencies to the cumulative number of RO inspections within the previous 36 months to determine level of a RO's detainable deficiency index compared to the regional RO related detainable deficiency index.

RO related detainable deficiency index / Regional average RO related detainable deficiency index	RO related Detainable Deficiency Index Level
< 1.0	Low

The calculation is made daily on the basis of a running 36-months period.

7 Calculation of the Company Detention Index Level

Company Detention index is the ratio of the cumulative sum of the number of Company detentions to the cumulative sum of the Company inspections of all ships in a Company's fleet within previous 36 months.

This index is compared with the BS MOU regional average Company detention index which is the ratio of the cumulative sum of the number of Company detentions to the cumulative number of Company inspections within the previous 36 months to determine level of a Company's detention index compared to the regional average Company detention index.

Company detention index/ Regional average Company detention index	Company Detention Index Level
> 1.1	High

The calculation is made daily on the basis of a running 36-month period. Both Company detentions and Company inspections are inspections with ISM Company Number which is recorded in the inspection record.

8 Calculation of the Company Deficiency Index Level

Company deficiency index is the ratio of the cumulative sum of the number of Company deficiencies to the cumulative sum of inspections all ships in a Company's fleet within previous 36 months.

This index is compared with the BS MOU regional average Company deficiency index which is the ratio of the cumulative sum of the number of Company deficiencies to the cumulative number of Company inspections within the previous 36 months to determine level of a Company's deficiency index compared to the regional average Company deficiency index.

Company deficiency index / Regional average Company deficiency index	Company Deficiency Index Level
< 1.0	Low

9 Calculation of the Ship Deficiency Index Level

Ship deficiency index is the ratio of the cumulative sum of the number of deficiencies to the cumulative sum of inspections of an individual ship within previous 36 months.

This index is compared with the BS MOU regional average deficiency index which is the ratio of the cumulative sum of the number of deficiencies to the cumulative number of inspections within the previous 36 months to determine level of an individual ship's deficiency index compared to the regional deficiency index within the previous 36 months.

Ship deficiency index /Regional average deficiency index	Ship Deficiency Index Level
< 1.0	Low
> 2.0	Very High

Annex 5 Inspection and Selection Scheme

- 1 Based on a ship's Ship Risk Profile, the Inspection and Selection scheme determines the scope, frequency and priority of inspections.
- 2 Periodic inspections are carried out at intervals determined by the ship risk profile.
- 3 Overriding or unexpected factors might trigger an inspection in between periodic inspections. This category of inspections is referred to as an Additional Inspection
- 4 Ships become due for periodic inspection in the following time windows:

For HRS- between 2-4 months after the last inspection in the BS MOU region

For SRS- between 5-8 months after the last inspection in the BS MOU region.

For LRS-between 9-18 months after the last inspection in the BS MOU region
- 5 Periodic Inspection and Additional Inspections count equally. Therefore, the time span for the next periodic inspection re-starts after an additional inspection.
- 6 Ship priorities:

Priority I : ships must be inspected because the time window has closed or there is an overriding factor.

Priority II : ships may be inspected because they are within the time window of inspection or the port State considers there is an unexpected factor warrants an inspection.

No priority : ships with neither Priority I nor Priority II
- 7 If a Priority II periodic inspection is not performed the ship remains Priority II until the time window closes and ship becomes Priority I.
- 8 In the case of Unexpected Factors the need to undertake an additional inspection is left to the discretion of the Authority. If such a Priority II inspection is not performed it remains a Priority II ship if and when it arrives in another MOU port unless the Authority judges that any relevant information that it has received does not warrant being passed on.
- 9 The priority and the level of selection will be shown for each ship in the information system of BSIS.
- 10 The category and type of inspection carried out is determined by the matrix below:

Selection Scheme

Priority	Level	Category of inspection
I Ship must be inspected	Overriding factor	Additional
	HRS not inspected in last 4 months	Periodic
	SRS not inspected in last 8 months	Periodic
	Ship not inspected in last 18 months	Periodic
II Ship may be inspected	HRS not inspected in last 2 months	Periodic
	Ship with unexpected factors	Additional
	Overriding factor Ship becomes priority I	Additional
	SRS not inspected in last 5 months	Periodic
	LRS not inspected in last 9 months	Periodic
Ship with no priority (ships with neither Priority I nor Priority II)	Overriding factor Ships become Priority I	Additional
	Unexpected factor Ships become Priority II	

Overriding and Unexpected Factors

Overriding Factors

- 11** The overriding factors listed below are considered sufficiently serious to trigger an additional inspection at Priority I:
- Ships reported by another Member State or the secretariat excluding unexpected factors,
 - Ships involved in a collision, grounding or stranding on their way to port,
 - Ships accused of an alleged violation of the provisions on discharge of harmful substances or effluents,
 - Ships which have been manoeuvred in an erratic or unsafe manner whereby routing measures, adopted by the IMO, or safe navigational practices and procedures have not been followed,
 - Ships which have been suspended or withdrawn from their Class for safety reasons after last PSC inspection,
 - Ships which cannot be identified in the database,
 - Ships which have never been inspected in the region.

Unexpected Factors

- 12** Unexpected factors could indicate a serious threat to the safety of the ship and the crew or to the environment but the need to undertake an additional inspection is for the professional judgement of the Authority. These factors include:
- Ships reported by pilots or relevant authorities which may include information from Vessel Traffic Services about ships' navigation,
 - Ships reported with outstanding ISM deficiency (*3 months after issuing of deficiency*)
 - Previously detained ships (3 months after the detention),
 - Ships which have been the subject of a report or complaint by the master, a seafarer, or any person or organization with a legitimate interest in the safe operation of the ship, ship on-board living and working conditions or the prevention of pollution, unless the Member State concerned deems the report or complaint to be manifestly unfounded,
 - Ships operated in a manner to pose a danger,
 - Ships reported with problems concerning their cargo, in particular noxious or dangerous cargo,
 - Ships where information from a reliable source became known, that their risk parameters differ from the recorded ones and the risk level is thereby increased,
 - Ships carrying certificates issued by a formerly BS MOU recognized organization whose recognition has been withdrawn since the last inspection in the BS MOU region.

Annex 6 Minimum Criteria for Port State Control Officers

- 1** In pursuance of the provisions of section 3.5.1 of the Memorandum, the Port State Control Officer must be properly qualified and authorized by the Authority to carry out port State control inspections.
- 2** Officers must, as a minimum, have either;
 - a) appropriate qualifications from a marine or nautical institution and relevant seagoing experience as a certificated ship officer holding or having held a valid STCW II/2 or III/2 certificate of competency not limited as regards the operating area or propulsion power or tonnage; or
 - b) passed an examination recognised by the authority as a naval architect, mechanical engineer or engineer related to the maritime fields and worked in that capacity for at least five years; or
 - c) a relevant university degree or equivalent and have properly trained and qualified as ship safety officers.
- 3** Officer must have:
 - completed a minimum of one year's service as a flag State inspector either dealing with surveys and certification in accordance with the Conventions or involved in the monitoring of activities of recognized organisations to which statutory task have been delegated; or
 - gained an equivalent level of competence by following a minimum of one year's field training participating in Port State Control inspections under the guidance of experienced Port State Control Officers.
- 4** The officer mentioned under 2a) must have gained a maritime experience of at least 5 years including periods served at sea as officers in deck-or engine- department respectively, or as a flag State inspector or as an assistant Port State Control Officer or have other adequate experience. Such experience shall include a period of at least two years at sea as a deck or engine officer.
- 5** The officer must have ability communicate orally and in writing with seafarers in the English language.
- 6** The officer must have appropriate theoretical knowledge and practical experience of ships and their operations, and must be competent in the enforcement of the requirements of the provisions of the relevant instruments and of the relevant procedures on port State control. This knowledge and competence in enforcing requirements must be acquired through documented training programmes.
- 7** In carrying out their duties Port State Control Officers will be guided by the "Code of Good Practice for PSCOs conducting inspections within the framework of the BS MOU".

Annex 7 Terms of Reference of The Secretariat

On the basis of the tasks defined in Section 7.6 of the Memorandum, an indication is given below of the Services the Secretariat could provide for. The listed items only serve an illustrative purpose. Decisions on the tasks of the Secretariat will have to be taken by the Committee as meant in Section 7.3 of the Memorandum

- .1 prepare papers for the meetings of the Committee;
- .2 present any advice of the Committee to the Ministers responsible for maritime safety;
- .3 circulate papers among the members of the Committee, IMO and ILO and any other body or institution, as deemed necessary;
- .4 organize the meetings of the Committee;
- .5 present statistical information on deficiencies found, as well as analyses of the nature of the deficiencies;
- .6 present statistical information on the inspections by Authorities;
- .7 circulate information on developments on port State control in international bodies, such as IMO, ILO or any other body or institutions, as deemed necessary;
- .8 make proposals and execute decisions from the Committee in respect of further developments in the information system;
- .9 supply information on the Memorandum to other interested authorities, bodies or organizations;
- .10 deal administratively with requests of Authorities to accede to the Memorandum and to take actions for the formal procedures for accession as requested by the Committee;
- .11 provide each year a budget proposal for the work of the Secretariat;
- .12 each year render an account on the previous year, including suggestions for payment or additional payment;
- .13 advise on any other financial aspects of the Memorandum.

The Secretariat will comprise a Secretary and a Deputy Secretary and additional technical and administrative staff as judged necessary by the Committee. The Secretary will be a national of the host country. The Deputy Secretary shall be a national of any Black Sea country. Both the Secretary and the Deputy Secretary shall be appointed by the Committee upon proposal of their national Authority. The additional technical and administrative staff shall be appointed by the Secretary and presented by the Secretary to the Committee.

Annex 8 Qualitative Criteria for Adherence to the Black Sea Memorandum

The Maritime Authority of the State may adhere as a full member, provided that all of the following qualitative criteria have been met:

- .1 Such Maritime Authority shall explicitly subscribe to the commitments under the Memorandum with a view to contributing to the common endeavour to eliminate the operation of substandard ships;
- .2 Such Maritime Authority shall take all necessary measures to encourage the ratification of all relevant instruments in force. Port State control shall not be applied by such Maritime Authority to those instruments not yet ratified by the State;
- .3 Such Maritime Authority shall have sufficient capacity, logistically and substantially to appropriately enforce compliance with international maritime standards, regarding maritime safety, pollution prevention and living and working conditions on board with regard to ships entitled to fly its flag, which should include the employment of properly qualified surveyors, acting under the responsibility of its Administration, to be demonstrated to the satisfaction of the Committee referred to in 7.1 of the Memorandum;
- .4 Such Maritime Authority shall have sufficient capacity, logistically and substantially, to comply in full with all provisions and activities specified in the Memorandum in order to enhance its commitments, which shall include employment of properly qualified Port State Control Officers acting under the responsibility of its Administration, to be demonstrated to the satisfaction of the Committee referred to in 7.1. of the Memorandum;
- .5 Such Maritime Authority shall, as of its effective date of membership, establish a connection to the Information System, referred to in Section 4.3 of the Memorandum;
- .6 Such Maritime Authority shall sign a financial agreement for paying its share of the operating costs of the Memorandum and shall, as of its effective date pay its financial contribution to the budget as approved by the Committee referred to in 7.1. of the Memorandum.

Assessment of compliance with the above conditions shall only be valid for each individual case and shall not create a precedent for any future cases, neither for the Authorities present under the Memorandum nor for the potential new signatories.