

AGREEMENT No. 80
(of June 29, 2004)

“Whereby the Regulation on Navigation in Panama Canal Waters is amended”

THE BOARD OF DIRECTORS
OF THE PANAMA CANAL AUTHORITY

WHEREAS:

The Board of Directors of the Panama Canal Authority approved the Regulation on Navigation in Panama Canal Waters by means of Agreement No. 13 of June 3, 1999.

In a Diplomatic Conference held at the International Maritime Organization (IMO) in London, England, on December 2002, the signatory states of the International Convention for the Safety of Life at Sea, 1974 (SOLAS /74) adopted the Amendment Protocol to said Convention.

This Protocol introduces new rules to increase the maritime security of ships and port facilities, including the International Ship and Port Facility Security Code (ISPS Code).

Although the Panama Canal is not included in the ISPS Code definition of port facilities, interfaces do take place in its waters between ships and Panama Canal Authority facilities, as well as activities between two or more ships in transit or at its anchorages and, in general, activities that may cause a direct impact to transit operations, and for this reason the Panama Canal Authority has decided to adopt security measures in its facilities similar to those established in the above-mentioned Code.

For the purpose of implementing security measures similar to those established in the ISPS Code, it is necessary to amend the Regulation on Navigation in Panama Canal Waters, in order to incorporate the pertinent rules to its special legal regime.

In order to incorporate the above-mentioned rules, a new chapter has been added to the Regulation, resulting in the need to amend the numbering in its last chapter.

The Administrator of the Panama Canal Authority has submitted for consideration by the Board of Directors a draft agreement containing the pertinent amendments.

AGREES:

ARTICLE ONE: The following definitions are added to Article 8 of the Regulation on Navigation in Panama Canal Waters:

ISPS Code: International Ship and Port Facility Security Code.

International Ship Security Certificate (ISSC): A certificate issued by the vessel's flag administration or a Recognized Security Organization acting on behalf of such flag administration. In the event of a certificate issued by a Recognized Security Organization, the vessel's flag administration shall validate said certificate after verifying the implementation of the vessel's security plan. The original certificate shall be kept available onboard for presentation at the request of the Authority.

Panama Canal Security Officer (PCSO): Person designated by the Authority as the Panama Canal Security Officer. The PCSO is equivalent to the Port Facility Security Officer, as defined by the ISPS Code.

Panama Canal Security Plan: It is the compendium of regulations and procedures of the Authority, similar to those established in Chapter XI-2 of the International Convention for the Safety of Life at Sea, 1974 (SOLAS/74), and in the International Ship and Port Facility Security Code (ISPS). This plan is applicable to Authority facilities and those under its exclusive administration that are essential for the operation of the Canal.

Security Level: Qualification of the degree of risk that an incident affecting maritime security be attempted or will occur.

ARTICLE TWO: The definition of Boarding Officer as it appears in Article 8 of the Regulation on Navigation in Panama Canal Waters is amended as follows:

Boarding Officer: A qualified employee who is assigned the functions of inspector for the purpose of ensuring compliance with this Regulation, the Regulation on Safety and Occupational Health, the Regulation for the Admeasurement of Vessels to Assess Tolls for Use of the Panama Canal, the Regulation on Security of the Panama Canal Authority, the Regulation on Sanitation and Communicable Diseases, and the manuals and procedures for their implementation.

ARTICLE THREE: Chapter X of the Regulation on Navigation in Panama Canal Waters shall read as follows:

Chapter X

Security Rules Applicable to Ships in Panama Canal Waters or Installations

Article 142: The Panama Canal Authority security requirements contained in this chapter shall apply to all ships arriving in Panama Canal waters, whether they intend to proceed to the anchorages, to the ports, or to transit the Canal. These requirements shall apply equally to ships conducting commercial activities in Panama Canal waters.

Article 143: Ships flying the flag of countries who are not parties to the SOLAS Agreement, ships less than 500 gross registered tons, and ships belonging to and operated

by a State who is a party to the above-mentioned Agreement, used solely for non-commercial government service, shall provide proof that they have implemented security measures on board equivalent to those required by the ISPS Code.

Article 144: Ships not in compliance with the security requirements contained in this chapter shall be subject to the control and compliance measures the Authority may determine. Among the measures that may be applied shall be the assignment of additional resources at the ship's expense and the conduct of a more thorough inspection, which may result in the delay or denial of the ship's transit.

Article 145: Any ship on an international voyage and under way to the Panama Canal shall notify the Authority at least ninety-six (96) hours prior to its arrival, of the following:

1. Its intention of proceeding to the anchorage, transiting the Canal, or proceeding to port;
2. Its security level at the time, according to the ISPS Code;
3. A confirmation that the ship holds a valid International Ship Security Certificate (ISSC);
4. The security level under which the ship operated at its last ten ports of call;
5. Any special security measure implemented during said calls;
6. A confirmation that the appropriate security measures were maintained during ship/ship interfaces during the period of its calls to the last ten ports.

Ships with a voyage time of less than ninety-six (96) hours from their last port of call prior to entering Panama Canal waters shall provide the Authority, immediately upon their departure from said port, the information listed in the preceding paragraph.

Article 146: Yachts and minor local craft or those on international voyages shall notify the Panama Canal Authority through the Flamenco or Cristobal signal stations when they are not less than 12 nautical miles from the sea buoys at both ends of the Panama Canal, of the following:

1. The name of the yacht or minor craft;
2. The type of service of the yacht or minor craft;
3. Its dimensions;
4. Its registry flag;
5. Its port of origin or its last port of call prior to its arrival at the Panama Canal;
6. The number and nationality of the persons aboard;
7. The purpose for its entering Canal waters.

Article 147: Any ship in Panama Canal waters shall maintain a security level equal to or higher than the security level of the Panama Canal.

Prior to the ship's arrival in the Panama Canal, the Panama Canal Authority shall inform the ship of the security level of the Panama Canal, in order that, in the event the ship is at a lower security level, it may adjust its own security level to that of the Panama Canal.

Article 148: Any ship arriving in Panama Canal waters shall maintain control of its points of access onboard, and shall allow the embarkation of duly authorized Panama Canal Authority personnel.

Article 149: Any ship arriving in Panama Canal waters shall implement an efficient procedure for access to the ship for the expeditious handling of the embarkation and disembarkation of the required, properly identified Panama Canal Authority personnel. Said procedure may not, at any time, affect the safe navigation in Panama Canal waters. Any delays caused by the inspection procedures at the points of access to the ship shall be taken into account to schedule its transit.

Article 150: Any non-compliance with the provisions of this Chapter shall constitute an administrative offense in violation of the security rules for navigation of the Canal.

ARTICLE FOUR: The numbering of the former Chapter X, Offenses, Sanctions, and Sanctioning Proceedings of the Regulation on Navigation in Panama Canal Waters is hereby amended, and shall read as follows:

Chapter X
Offenses, Sanctions, and Sanctioning Proceedings
Section One
General Provisions

Article 151: A negligent act or omission in violation of the provisions on the safety of navigation in Canal waters of the Organic law and the Authority regulations, relating to the use of the Canal and its facilities, traffic administration, and pollution prevention in Canal waters, shall be considered an administrative offense.

The provisions referred to in the foregoing paragraph include any additional regulations, procedure manuals, prohibitions, orders, instructions, and authorizations issued by the Authority, for the purpose of enforcing or applying the regulations.

Article 152: Liability for violations to the safety of navigation in Canal Waters arises from failure to comply, by the owners, operators, masters, mates, crew members, and passengers of a vessel, with Authority provisions, rules, orders, or authorizations.

In these cases, the master or officer in command of the vessel shall be liable in solidum for any offenses with the vessel owner and operator.

Article 153: Natural or juridical persons, national or foreign, not directly involved with the vessel's operation and transit, shall be equally liable for the conducts described in the foregoing article.

In these cases, when members or representatives of a juridical person commit offenses attributable to that juridical person, the member or representative and the juridical person shall be liable in solidum for any offenses committed.

Article 154: Sanctions shall be imposed by the Administrator of the Authority or his designee.

Article 155: Sanctioning the offenses described in this Chapter will not preclude the Authority from demanding the resulting damages as set forth in article 127 of the Organic Law.

Article 156: The indemnification for damages caused by an offense shall be determined through a separate procedure, in accordance with the regulations issued by the Authority for such purpose.

Section Two Offenses

Article 157: Offenses are classified as not serious, serious, and very serious, according to the magnitude of the damage, risk, or danger caused, or other circumstances surrounding the facts.

Article 158: Offenses related to maritime safety and pollution are considered violations of the provisions on safety of navigation in Canal waters.

Maritime Safety Offenses

1. Any particular activity not authorized by the Authority, which in any way impairs, delays, stops, obstructs or prevents navigation or operation of vessels in Canal waters, or the operation of the locks, or which by any means threatens such activities.
2. Not providing the information required by the regulations, or requested by the Authority upon a vessel's arrival, or providing incorrect, false, or deficient information.
3. Failure to submit the vessel's required or exact documentation, or any documentation that may be required for the vessel's inspection.
4. Undertake navigation or giving orders for the vessel to be under way, without the vessel having the proper seaworthiness, as required by this regulation.
5. Failure to comply with the regulations, orders, or instructions issued by the Authority in relation to maritime operations in Canal areas.
6. Failure to comply with the regulations on cargo loading and unloading, or embarking or disembarking of passengers.

7. Failure to comply with any provisions or instructions on shipping, handling, or stowage of dangerous cargo; concealment of dangerous cargo; or concealment of the cargo's dangerous nature.
8. Failure to comply with Authority rules or instructions on the transit of and provisions on small craft, including vessels for recreational or other purposes, and on the use of any devices, equipment, or gear which may imply a risk to navigation in Canal waters.
9. Violation of the rules on dismantling a vessel's engines or rendering them inoperative, or abandoning or destroying vessels in Canal waters.
10. Failure to comply with the rules contained in international codes, conventions, and treaties on maritime safety, subscribed by the Republic of Panama.
11. Unauthorized navigation of any type of vessel, small craft, or artifacts used for transportation, fishing, or recreation, in the areas designated by the Authority as areas of restricted access, or traveling at a speed in excess of the limits set forth by the effective regulations.
12. Navigation without the required signal systems, designed for the permanent location and detection of the vessel.
13. Use of unauthorized acoustic signals.
14. The carrying of weapons, devices or illegal or dangerous substances not authorized by the Authority.
15. Failure to comply with the duty to report any incidents that may endanger the safety of navigation in Canal waters.
16. Actions or omissions not included in the above items, which may imply a risk or which may be dangerous to the safety of navigation in Canal waters.

Pollution of Canal Waters

1. Any activity that implies a risk of, or results in, pollution of the waters within the Canal operation compatibility area.
2. Failure to comply with the provisions or prohibitions contained in the regulations, as well as in the international codes, conventions, and treaties relative to waters pollution and prevention thereof, to the extent that it affects the safety of navigation in Canal waters.
3. The dumping of solids, liquids, gases, or other substances in Canal waters, from vessels, or any other floating artifacts.

4. Not reporting immediately to the Authority any accidental dumping or spills from a vessel.
5. Carrying out any repairs, cleaning, or other activities which may cause pollution.
6. Any other actions or omissions not included in the above items, which violate the regulations on Sanitation and Prevention of Communicable Diseases.

Article 159: When the administrative offense may be considered a criminal offense, the case shall be referred to the competent authorities.

Section Three Sanctions

Article 160: The following sanctions shall be imposed for offenses, according to their seriousness:

1. Non-serious offenses: fines of one hundred Balboas, to ten thousand Balboas (B/.100.00 – B/.10,000.00).
2. Serious offenses: fines of ten thousand and one Balboas, to one hundred thousand Balboas (B/.10,001.00 – B/.100,000.00).
3. Very serious offenses: fines of one hundred thousand and one Balboas, to one million Balboas (B/.100,001.00 – B/.1,000,000.00).

Article 161: In ranking the fines to be imposed, due consideration shall be given to the proportion between the seriousness and significance of the offense and the punishment applied, with special consideration of, but not limited to, the following criteria:

1. Whether the offender is a natural or juridical person.
2. Nature, kind, means, purpose, time, place, and any other characteristics of the offense.
3. Intensity of the criminal intent or degree of negligence.
4. Nature and magnitude of the damage, danger, or risk involved.
5. Repetition of an offense of the same nature within a period of one year.

Article 162: When applying the specific sanctions contemplated in this Regulation, it shall also be considered that committing the offense should not be more beneficial to the offender than complying with the provisions he has violated.

Article 163: If the alleged offender does not justify his actions, confesses to having committed the offense, and states that he agrees to abide by the punishment, the Authority shall immediately assess the appropriate fine, reducing it by one third.

Section Four Opening of the Proceedings

Article 164: The sanctioning proceeding shall be initiated by the Administration sua sponte, as a result of a superior order, at the justified request of another government agency, or in response to a denunciation.

The superior order, the justified request, or denunciation shall specify, to the extent possible, the person or persons presumably responsible for committing the offense; the conduct or facts that constitute the offense and its legal typification; and the place, date, or period of time in which the facts took place.

Article 165: Preliminary inquiries may be carried out prior to formal initiation of the proceedings, to determine if the circumstances warrant the proceedings.

The inquiries shall be carried out by the persons or the administrative unit in charge of inspection and investigation of such matters, and shall be oriented towards determining as precisely as possible the facts which may warrant the initiation of the proceeding, identification of the responsible persons, and other relevant circumstances.

Article 166: The proceedings shall be initiated through a formal statement containing, as a minimum, the following information:

1. Identification of the alleged offender(s).
2. The reasons justifying the proceeding, possible legal typification of the offense, and applicable sanctions, notwithstanding the results of the investigation.
3. Designation of the investigating official, and the Secretary of the proceedings or case file.
4. Reference to the Regulation assigning jurisdictional competency, with indication of the possibility that the alleged offender may voluntarily admit his offense, with the effects set forth in article 163.
5. Any temporary measures taken to ensure the effectiveness of the investigation, pursuant to article 171.
6. Indication of the alleged offender's right to make allegations within ten working days, following his notification.

Article 167: The formal statement initiating the proceedings shall be referred to the investigating officials, including all pertinent documentation, and notice shall be given to the alleged offender. In this notice the offender shall be advised that his non-appearance to contest the charges in the prescribed term shall be cause for immediate sanctioning of the offense.

Article 168: When the offender is a juridical person, the charges shall be made against and notified to its legal representative. However, if the offense was committed in or by means of a vessel, the charges shall be made against and notified to the master, or in his absence, to the officer in command of the vessel.

If the offense is committed by a natural person who is a member or a representative of a juridical person, and the offense is attributable to that juridical person, the charges shall be made against and notified to both.

Article 169: The Administration shall begin at its own initiative all the proceedings according to the principles of promptness and transparency, through its conclusion. Failure to comply with this provision shall result in disciplinary action against the transgressing personnel.

Section Five Investigation

Article 170: The required investigations for the determination, knowledge, and verification of the facts or the data on which the decision shall be based, so that the Administration may arrive at an informed decision, shall be carried out without prejudice to the right of the alleged offenders to request any actions that may require the intervention of the Administration.

Article 171: To ensure the effectiveness of the investigation, when an offense so warrants it, the competent authority may, through a decision setting forth the reasons thereof, proceed to take any temporary precautionary measures. These temporary measures may not exceed the time required to take the specific action, as the circumstances may require.

When they are so urgent that they cannot be postponed, the investigating organization may take the temporary precautionary measures, subject to the formalities and restrictions set forth in this article.

Article 172: The alleged offenders shall have the term set forth in article 157 to make allegations, and to submit any documentation and information they deem necessary in their defense, as well as to present evidence, specifying the means that they will use in their defense.

Article 173: Facts that are relevant to a decision in a proceeding may be proven by any means that are admissible by law.

Article 174: When the Administration has reason to doubt the facts alleged by the persons charged with the offense, or when evidence has been presented, the investigator may agree to a period of no more than twenty, and no less than five, working days to submit any evidence, so that he can hear any evidence he deems pertinent.

The investigator in the case may only reject the evidence submitted when it is evidently inadmissible or unnecessary, through a resolution laying out the reasons therefor.

Article 175: The alleged offenders shall be given notice of the proceeding referred to in the foregoing article with sufficient anticipation, indicating the place, date, and time in

which each evidence admitted shall be heard, and a statement to the effect that the offender may appoint experts to assist him.

Article 176: In case the hearing of any evidence requested by the alleged offender causes any expenses to the Administration, it may require payment in advance for these expenses, subject to definitive payment of the total amount.

Article 177: Upon concluding the investigation, the investigator in the case shall prepare a proposed resolution, explaining and supporting his findings, indicating the facts that have been proven and their legal typification, specifying the offense that was committed, the person or persons who allegedly committed it, and the proposed sanction; or he shall make a statement to the effect that the offense or the liability is non-existent.

Section Six Conclusion of the Proceedings

Article 178: Before issuing a resolution, the competent authority may decide, setting forth the reasons thereof, to carry out complementary actions indispensable for the proper resolution of the proceedings. This decision shall be notified to the alleged offenders, indicating the term established to carry out these actions, which shall not exceed fifteen days.

Article 179: The resolution concluding the proceedings shall set forth the reasons for such a decision, and shall address all the issues presented by the offenders, and derived from the proceedings. It shall include an evaluation of the evidence that was heard, especially the evidence that constitutes the basis for the decision, and shall establish the facts, the persons responsible for committing the offense, the offense committed, its seriousness, and the corresponding sanction.

The resolution shall also contain a statement of the offender's appeal rights, the authority to which he may appeal, and the time allowed for the appeal.

Article 180: The resolution issued shall be immediately enforceable, unless the interested parties file the appropriate appeal within the prescribed term.

Article 181: The Administration may rectify at any time, sua sponte, or at the request of the alleged offenders, any material, factual, or arithmetical mistakes found in the proceedings.

Section Seven Summary Proceedings

Article 182: When the investigator or his personnel have reasons to believe that there is sufficient evidence to classify the offense as "not serious", and the offense has not caused any damages, the case shall be tried expeditiously, by means of a summary proceeding.

Article 183: The summary proceeding shall be held in accordance with the following procedure:

1. A record shall be prepared, documenting the facts of the offense, the alleged offender, and the basis for such classification of the offense, stating that no material damage or harm has been caused.
2. A resolution shall be issued based on the foregoing document, relating the above circumstances, and the corresponding sanction.

However, if in the opinion of the competent authority, the facts constitute a serious offense, the case shall follow the regular procedure established in this Regulation.

Article 184: Immediate notice of the convicting resolution shall be given to the offender or his shipping agent, if the case may be, who may appeal it, in accordance with the foregoing articles.

Section Eight Administrative Remedies

Article 185: The administrative procedure for offenses against the safety of navigation in Canal waters only admits one of the following forms of appeal:

1. Appeal for reconsideration to the Administrator of the Authority or his designee, provided the fine assessed does not exceed the amount of one hundred thousand Balboas (B/.100,000.00).
2. Appeal to the Board of Directors in full, when the amount of the fine assessed exceeds the amount indicated in item 1 above.

The appropriate appeal to the issuing authority must be filed and formalized within five working days, following the appellant's receipt of the notice of decision.

Article 186: The authority to which the appeal is made shall contact the appellants, to advise them that they must present their allegations, documentation and support material, within ten working days following receipt of notice of the decision that was appealed.

Article 187: Notwithstanding the above, the authority hearing the appeal may examine new evidence ex officio, within a period of a maximum of ten working days.

Article 188: In deciding the appeal, all the formalities and merits of the case in process shall be examined, whether alleged or not.

Article 189: Resolutions to decide an appeal may not impose greater sanctions than those imposed by the original decision.

Article 190: The decisions issued shall terminate the administrative procedure and shall be enforceable immediately.

Section Nine

Notices

Article 191: Resolutions shall be personally served to the offender, within two working days of their date of issuance.

Article 192: When the alleged offender is not found, this shall be recorded in the case file, and notice shall be given to the offender by means of a public notice posted in the appropriate administrative office, for a period of three working days. Notice will be considered given on the date the public notice is removed. In the case of offenses committed aboard or by means of a vessel, the public notice may be posted in the bridge, and it shall be considered given, without prejudice to giving notice to the vessel's shipping agent domiciled in the Republic.

The public notice shall contain a statement regarding the matter in question, the date, the dispositive part of the resolution, and the lawful forms of appeal.

Article 193: Notwithstanding the provisions of the foregoing article, any resolutions the course of which is not known to the alleged offender shall be personally served; if this is not feasible, public notice shall be posted, pursuant to the Judicial Code of the Republic of Panama.

Article 194: This Regulation shall become effective on July one, two thousand and four.

PARAGRAPH: The Administrator of the Panama Canal Authority is hereby authorized to publish and disseminate this Regulation with a different format, including annotations and comments, to facilitate its use by the users of the Canal.”

ARTICLE FIVE: This Agreement shall become effective on the first of July, two thousand and four.

Given in the city of Panama, on the twenty-ninth of June, two thousand and four.

TO BE PUBLISHED AND ENFORCED.

Jerry Salazar A.

Diógenes de la Rosa

Chairman of the Board of Directors

Secretary