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COURT ORDERS RESUMPTION OF BALLAST WATER REGULATION AT THE PORT OF SANTOS

SUSPENDED BY ANTAQ, THE RULE
REQUIRING A CERTIFICATE FOR SHIP
DOCKING IS BACK IN EFFECT

The rule requiring ships docking at the Port of Santos to present a certificate of compliance with international ballast water disposal regulations, which had been suspended in December last year, was reinstated this Thursday (13). This followed a court decision in favor of a request from the Santos Port Authority. The state-owned company that manages the Santos quay sought to overturn the ruling by the National Waterway Transport Agency (Antaq), which now has 10 days to respond. The regulation is controversial and represents high costs for users of the maritime complex.

The regulation, published in April 2024 by the port authority, mandated the hiring of a remote monitoring system, representing significant additional operational costs estimated at USD 50 million, in addition to overlapping regulations. The Brazilian Association of Cabotage Shipowners (Abac) and the National Center for Transatlantic Navigation (Centronave) filed complaints, which were upheld by the regulatory agency, leading to the suspension of the rule.

Before the new rule by the Port Authority, ship inspections were conducted on a sampling basis, relying on information provided by ship commanders. Under the new rule imposed by the Port Authority, all ships came under continuous monitoring.

However, only one company, Balance Water Central (BWC), was accredited by the state-owned entity for this purpose. BWC was responsible for certifying compliance with the regulation based on information provided by the vessels, such as geographic coordinates, using artificial intelligence tools, GPS, and other technologies to verify whether ships discharged ballast water in permitted areas or adopted filtering systems as required by the International Maritime Organization (IMO) and Brazil's NORMAM 401.

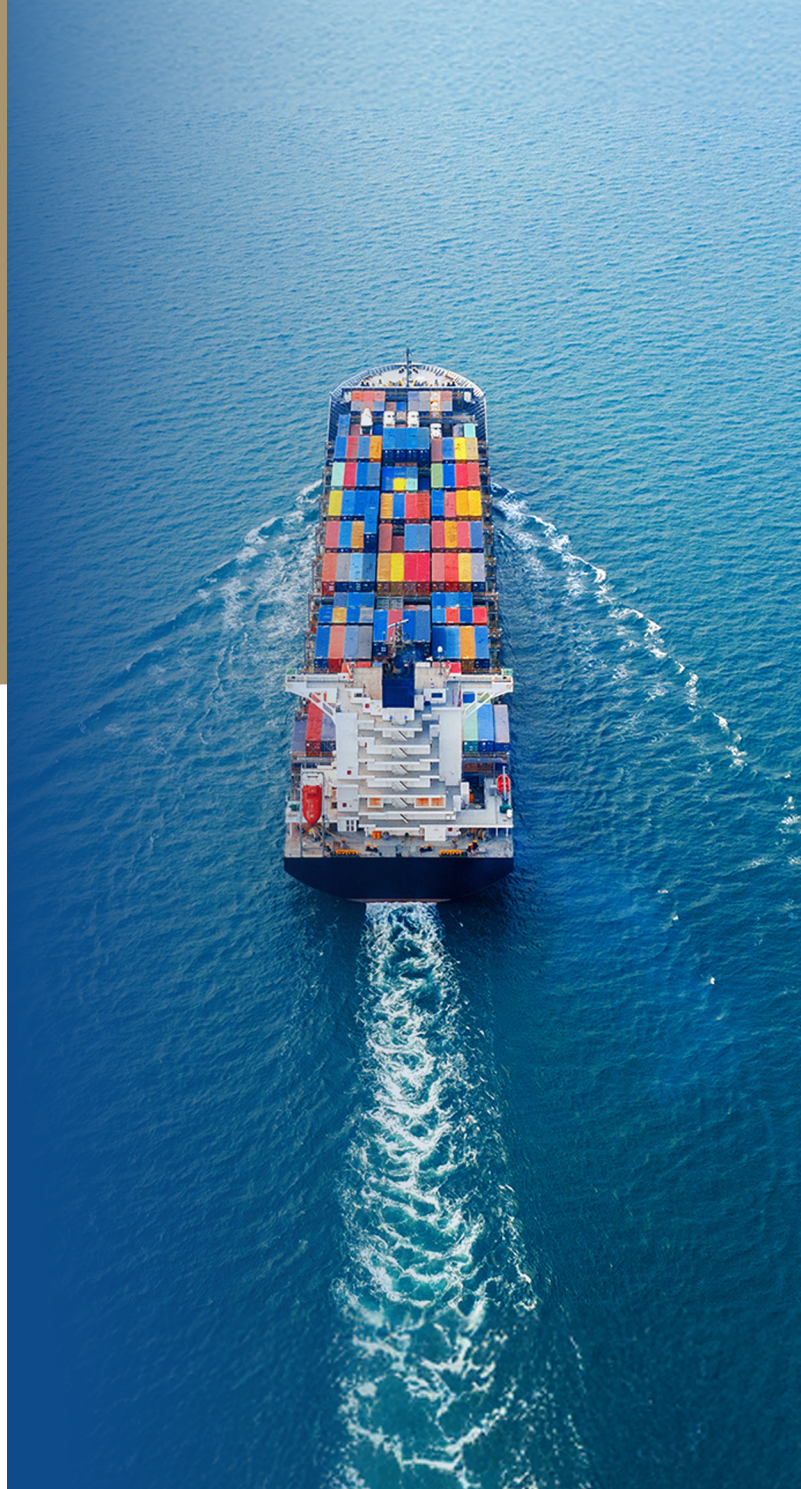
The certificates issued by BWC cost between USD 1,390 and USD 1,700. A simple calculation shows that, if enforced, the requirement would result in an annual cost of USD 50 million, considering the high volume of vessels heading to the Port of Santos.

COURT DECISION

According to the state-owned company managing the Port of Santos, the Federal Regional Court ruled that Antaq exceeded its authority by declaring the regulation requiring the certificate null and void. The company also stated that the rule *"aims to enhance environmental safety at the Port of Santos, which is already affected by the invasion of exotic species. This so-called bioinvasion threatens marine life and has been causing serious environmental and social damage, as it also impacts subsistence fishing in coastal communities, including in Brazil."*

Regarding the fact that only a single company currently provides the required service, the Santos Port Authority stated that it keeps accreditation open for other companies to issue ship compliance certificates.

Antaq has 10 days to respond to the court decision. The Union of Regulatory Agencies is also working to support the agency's previous request for the suspension of the regulation to prevent additional bureaucracy and extra costs for transport operators.



BALLAST WATER

Ballast water is essential for navigation safety, especially when ships are lightly or completely unloaded. To keep their propeller systems submerged, ships use liquid ballast in tanks located in the lower compartments. The water collected in ports and estuaries worldwide ensures vessel stability, preventing structural damage, including the risk of breaking in half or even sinking in stormy conditions. The amount of ballast water collected depends on the cargo load—less cargo requires more ballast water. Once sufficiently loaded, the ship discharges the ballast water.

By carrying sewage, toxic materials, and even species from one region to another, ballast water presents environmental and public health risks. Many of these transported species, both plant and animal, are endemic to their original regions, lack natural predators in new environments, and can reproduce rapidly, outcompeting native species. Bacteria and other pathogenic organisms can also be transported across regions through discharged ballast water.