

Regional Port State Control

Issues and Challenges

John Mansell - Natship09

newzealand.govt.nz

United National Convention on the Law of the Sea 1982

“Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.”

Article 94 LOSC

Flag State Responsibility

In an ideal world flag States, whose flags are worn by the world's shipping, would lay down, and enforce upon their shipowners, standards of design, maintenance and operation which would ensure a very high standard of safety at sea. Coastal States, along whose coasts shipping passes, and Port States, at whose ports or anchorages shipping calls, would have no cause to concern themselves with the maintenance of such standards. The present system of Flag State Control falls well short of this ideal...Regrettably it is beyond argument that not all flag States live up to their responsibilities.

Lord Donaldson, *Safer Ships, Cleaner Seas*, 1994

Derivation of Port State Control

“a foreign ship (which) has taken on board all or any part of her cargo at a port in the United Kingdom, and is whilst at that port unsafe by reason of overloading or improper loading, the provisions of this Part with respect to detention of ships shall apply to that foreign ship as if she were a British ship...”



Merchant Shipping Acts Amendment Act 1876

PSC in National Law

- Merchant Shipping Act 1876
- Merchant Shipping Act 1894
- Navigation Act 1912 (Australia)
- Protection of the Sea (Prevention of Pollution for Ships) Act 1983
- Marine Orders Part 11: *Sub-Standard Ships*
- Reactive not proactive control

Torrey Canyon



IMO's Response

- Intervention Convention 1969
- Civil Liability Convention 1969
- Fund Convention 1971
- MARPOL 73/78
- SOLAS 74
- A.9/Res.321; Procedures for the control of ships 1975

Catalyst for regional PSC

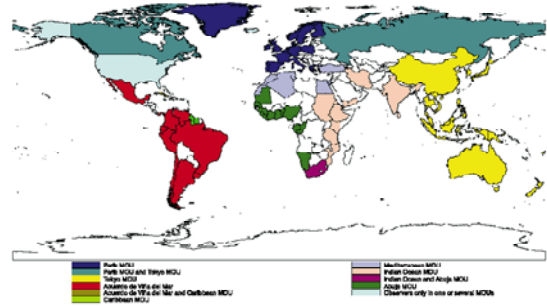


Regional PSC



- 1978 - Hague Memorandum on ILO 147
- 1981 - A.12/Res.466 – Procedures of port state control
- 1982 - Paris MOU
- Administrative agreement
- 14 European Coastal States (now 27)
- 25% inspection target

Regional Agreements on Port State Control



Regional PSC Regimes

- 1982 - Paris MOU
- 1992 - Acuerdo de Vina del Mar
- 1993 - Asia/Pacific (Tokyo MOU)
- 1996 - Caribbean MOU
- 1997 - Mediterranean MOU
- 1998 - Indian Ocean MOU
- 1999 - West & Central African (Abuja MOU)
- 2000 - Black Sea MOU
- 2004 - Arab States of the Gulf (Riyadh MOU)
- United States Coastguard

Tokyo MOU Strategic Objective

Establish an effective port State control regime in the Asia-Pacific region, through co-operation and harmonization, to eliminate sub-standard shipping so as to promote maritime safety, to protect the marine environment and to safeguard working and living conditions on board.



Tokyo MOU Member Authorities

- Australia
- Canada
- Chile
- China
- Fiji
- Hong Kong (China)
- Indonesia
- Japan
- Republic of Korea
- Malaysia
- New Zealand
- Papua New Guinea
- The Philippines
- Russian Federation
- Singapore
- Thailand
- Vanuatu
- Viet Nam



Tokyo MOU Membership

- Regional coverage
- Issues of capacity and capability
- Membership levels: Tokyo and Paris
- DPR of Korea
- Membership criteria
- Co-operating membership
- Fact-finding missions and audits



Tokyo MOU Regional Inspection Rate

- Initial regional target 50%
- Increased to 75% in 2000
- Increased to 80% in 2008
- Target factor introduced 2004
- Conflict between quantitative/qualitative measures
- Achievement of regional inspection rate

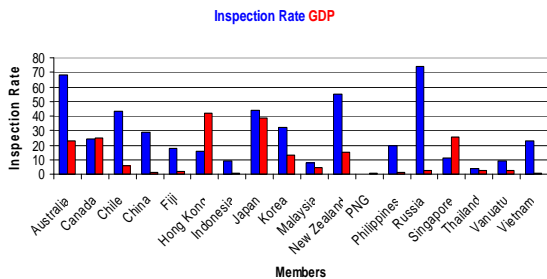


Tokyo & Paris MOU Statistics 2007

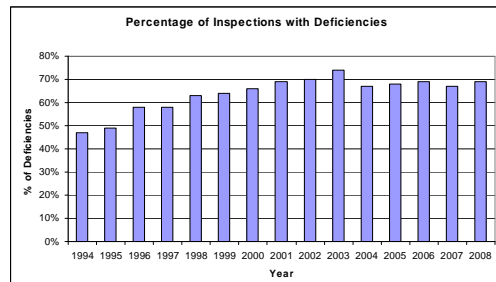
- 18,721 – 73,038 individual ships
- 12,337 - 14,182 ships inspected
- 66% - 30% regional rate
- 22,039 – 22,877 initial PSC inspections
- 6,061 follow-up inspections
- 14,864 – 12,909 inspections with deficiencies
- 83,950 - 74,713 deficiencies
- 1,239 – 1,250 detentions
- 5.62% - 5.44% detention rate



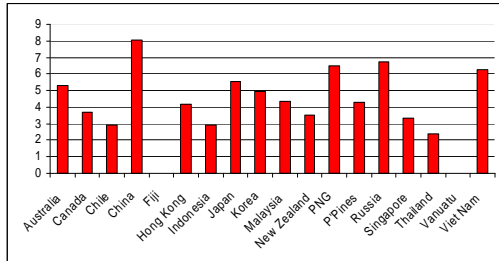
Tokyo MOU – Inspection Rate/GDP



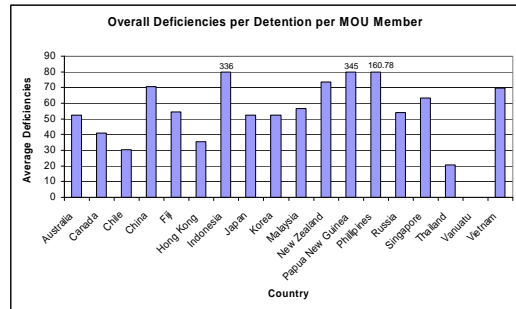
Percentage of Inspections with Deficiencies



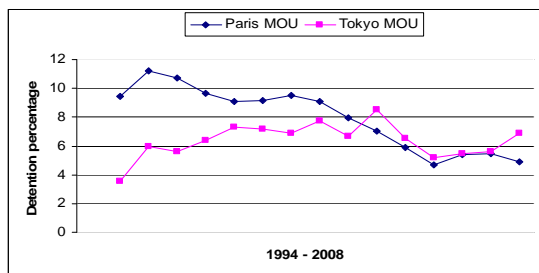
Deficiencies per PSC Inspection with deficiencies 2008



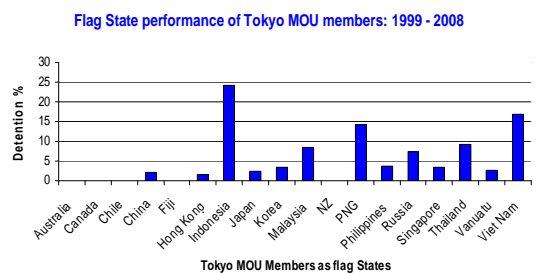
Overall Deficiencies per Detention



Regional Detention Rates



Flag State Performance



“Effective PSC Regime”

- Very efficient Secretariat
- Excellent database
- Uneven PSC contribution by members
- Varying levels of PSC judgment
- Need for performance measures
- Status of non-contributory members
- Public scrutiny of performance?

“Co-operation of its Members”

- Widespread co-operation
- Regional training programmes
- PSCO Seminars
- Advanced member exchanges
- Expert missions
- Standing Working Group
- Practical PSC training

“Harmonisation of Activities”

- MOU, PSC Manual and IMO Res. A.787(19)
- Issues of use of Target Factor
- Non-acceptance of inspections
- Issues of follow-up inspections
- Harmonisation with Paris MOU
- Consistency of annual reporting

“Elimination of Sub-Standard Ships and Promotion of Maritime Safety”

- Significant contribution to elimination
- Objective unachievable
- Uneven contribution by members
- Increase in deficiency/detention rates
- ISM related deficiency issue
- Paris MOU statistics

“Protection of the Marine Environment”

- Operational oil spills <7 tonne
- Marpol Annex 1
- Annual percentage deficiencies
- Concentrated Inspection Campaign 2006
- Detention rate 1.99%

“Safeguarding Working and Living Conditions”

- ILO 147
- Status as “relevant instrument”
- Paris MOU CICs
- Paris MOU statistics
- Tokyo MOU statistics
- Contribution of members of Tokyo MOU
- Maritime Labour Convention 2006

Conclusion

- Efficient Secretariat and database
- Significant impact on sub-standard ships
- Issues of capacity and capability
- Issues of harmonisation
- Issues of uneven contribution
- Challenge of meeting these issues
- Challenge of developing a strategic plan

Questions

