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INTRODUCTION

THE GROWING IMPORTANCE OF PORT STATE CONTROL

Port State Control is the process by which a nation exercises authority over foreign ships when those ships are in waters subject to its jurisdiction. The right to do this is derived from both domestic and international law. A nation may enact its own laws, imposing requirements on foreign ships trading in its waters, and nations which are party to certain international conventions are empowered to verify that ships of other nations operating in their waters comply with the obligations set out in those conventions.

The stated purpose of Port State Control in its various forms is to identify and eliminate ships which do not comply with internationally accepted standards as well as the domestic regulations of the state concerned. When ships are not in substantial compliance, the relevant agency of the inspecting state may impose controls to ensure that they are brought into compliance.

Recently, IMO adopted a resolution providing procedures for the uniform exercise of Port State Control, and regional agreements have been adopted by individual countries within Europe, the European Union, and various East Asian and Pacific nations. A number of North African Mediterranean nations have recently expressed their intention to set up a separate regional agreement in their own area of the world. In addition, some countries such as the United States of America have adopted a unilateral approach to the subject, which nevertheless has the same aims.

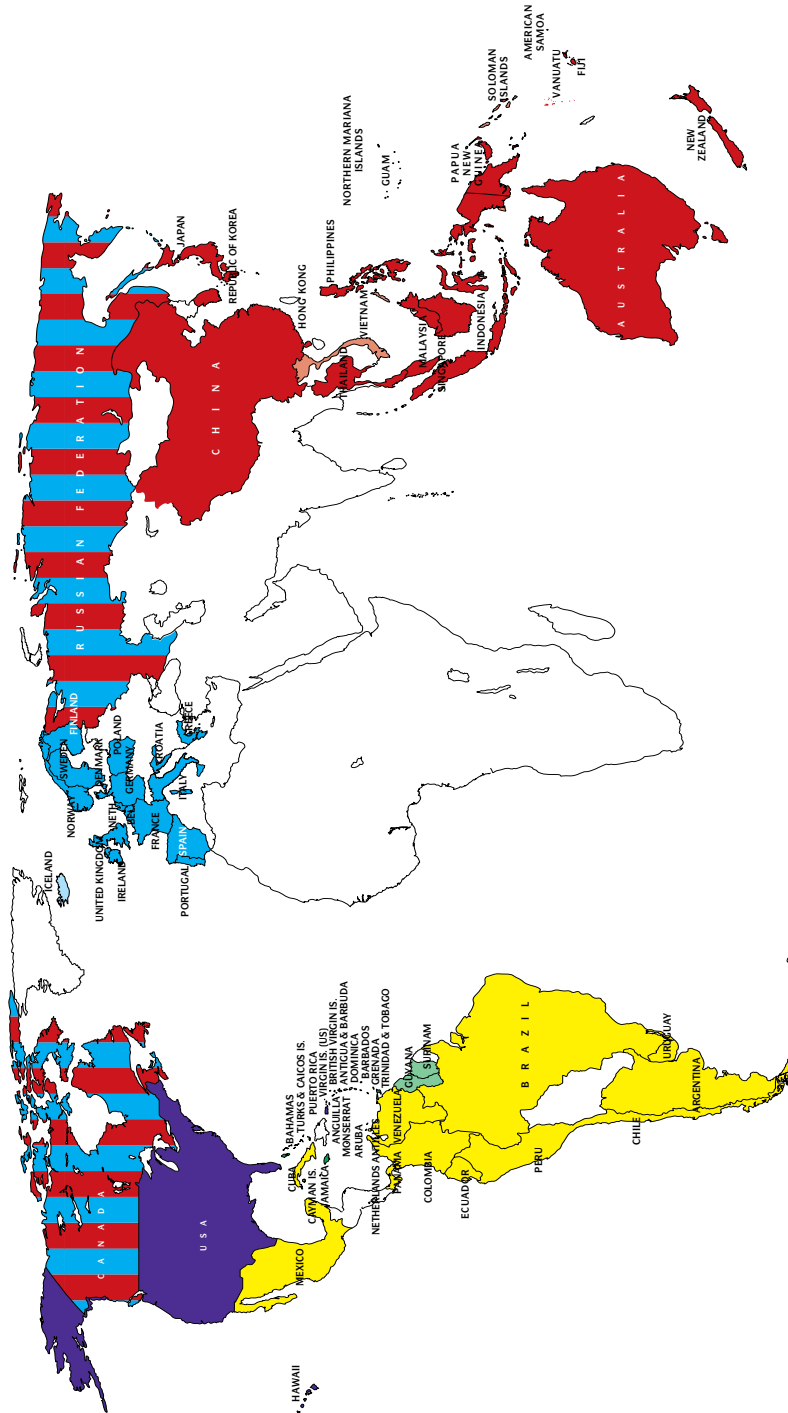
Shipowners and operators should take measures to reduce the likelihood that their ships will be subjected to intervention or detention, bearing in mind that increasingly efficient databases will enable the maritime authorities who participate in the growing range of international agreements, memoranda and conventions to exchange information. Being inspected by one state and given a clean bill of health will not necessarily prevent further inspections being made by another maritime authority – and, as information is exchanged between various organisations, non-compliant ships will find it increasingly difficult to continue operations.

ABOUT THIS GUIDE

This is one of two companion manuals specially prepared for UK Club Members to guide ship operators, managers and ships' officers through the intricacies of the various PSC regimes. This, the shorter of the two, presents simply the principal requirements of some of the most active Port State Control regimes in summary form and is suited to shipboard use. The other volume, entitled '*A Guide for Members*', provides a fuller explanation of the key provisions.

As Port State Control spreads and gains ground in other areas, either on a regional or unilateral basis, we anticipate providing supplementary updates so that our Members have the latest information available for both operational and management purposes on all developments around the world.

GEOGRAPHICAL OVERVIEW OF REGIONAL DEVELOPMENTS IN PORT STATE CONTROL (as discussed in this document)



FULL PARTICIPATING MEMBERS OF MOU

● PARIS MOU	● TOKYO MOU	● ACUERDO DE VIÑA DEL MAR	● CARIBBEAN MOU	● USA AND TERRITORIES
Canada*	Australia	Argentina	Antigua & Barbuda	
Belgium	Canada*	Brazil	Aruba	
Croatia	China, including Hong Kong Special Administrative Region	Chile	Bahamas	
Denmark		Cuba	Barbados	
Finland		Colombia	Cayman Islands	
France		Ecuador	Grenada	
Germany		Mexico	Jamaica	
Greece		Panama	Trinidad & Tobago	
Ireland		Peru		
Italy		Uruguay		
Netherlands		Venezuela		
Norway				
Poland				
Portugal				
Russian Federation*				
Spain				
Sweden				
United Kingdom				

*Canada and the Russian Federation adhere to both the Paris MOU and the Tokyo MOU.

SIGNED AUTHORITIES – NOT YET FULL PARTICIPATING MEMBERS OF MOU

● PARIS MOU	● TOKYO MOU	● ACUERDO DE VIÑA DEL MAR	● CARIBBEAN MOU
Iceland	Solomon Islands	-	Anguilla
	Vietnam		Dominica
			Guyana
			British Virgin Islands
			Monserrat
			Netherlands Antilles
			Surinam
			Turks & Caicos Islands

OUTLINE OF EACH PRINCIPAL REGIONAL AGREEMENT ON PORT STATE CONTROL

	PARIS MOU	TOKYO MOU
AUTHORITIES WHICH ADHERE TO THE MOU	Canada, Belgium, Croatia, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Russian Federation, Spain, Sweden, UK	Australia, Canada, China, Fiji, Hong Kong, Indonesia, Japan, Republic of Korea, Malaysia, New Zealand, Papua New Guinea, Philippines, Russian Federation, Singapore, Thailand, Vanuatu
AUTHORITIES WHICH HAVE SIGNED BUT NOT YET BECOME FULL PARTICIPATING MEMBERS	Iceland	Solomon Islands, Vietnam
OBSERVER AUTHORITY	-	United States (14th District USCG)
OBSERVER ORGANISATION	IMO, ILO	IMO, ILO, ESCAP
OFFICIAL LANGUAGE	English, French	English
SIGNED	26 January 1982	1 December 1993
EFFECTIVE DATE	1 July 1982	1 April 1994
GOVERNING BODY	Port State Control Committee	Port State Control Committee
SECRETARIAT	Provided by the Netherlands Ministry of Transport and Public Works The Hague	Tokyo MOU Secretariat (Tokyo)
DATABASE CENTRE	Centre Administratif des Affaires Maritimes (CAAM) (St. Malo, France)	Asia-Pacific Computerised Information System (APCIS)(Ottawa, Canada)
ADDRESS OF SECRETARIAT	Paris MOU Secretariat PO Box 2094 2500 Ex Den Haag The Netherlands Tel: +31 70 351 1508 Fax: +31 70 351 1599 Website: http://www.parismou.org	Tokyo (MOU) Secretariat Toneoecho Annex Bld, Toranoman Minato-ku 6th Floor, 3-8-26 Tokyo 105, Japan Tel: +81 3 3433 0621 Fax: +81 3 3433 0624 Website: http://www./ijinet.or.jp/toymou

	ACUERDO DE VIÑA DEL MAR	CARIBBEAN MOU
AUTHORITIES WHICH ADHERE TO THE MOU	Argentina, Brazil, Chile, Cuba, Colombia, Ecuador, Mexico, Panama, Peru, Uruguay, Venezuela	Antigua & Baruda, Aruba, Bahamas, Barbados, Caymen Islands, Grenada, Jamaica, Trinidad & Tobago
AUTHORITIES WHICH HAVE SIGNED BUT NOT YET BECOME FULL PARTICIPATING MEMBERS		Anguilla, Dominica, Guyana, British Virgin Islands, Monserrat, Netherland Antilles, Surinam, Turks & Caicos Islands
OBSERVER AUTHORITY	-	Anguilla, Monserrat, Turks & Caicos Islands
OBSERVER ORGANISATION	IMO, ROCRAM	Paris MOU, Tokyo MOU, Viña del Mar, Canada, USA, Netherlands, CARCOM, Secretariate, ILO, IMO, IACS
OFFICIAL LANGUAGE	Spanish, Portuguese	English
SIGNED	5 November 1992	9 February 1996
EFFECTIVE DATE	-	-
GOVERNING BODY	Committee of the Viña del Mar Agreement	Caribbean Port State Control Committee
SECRETARIAT	Provided by Prefectura Naval Argentina (Buenos Aires)	(Anticipated) Barbados
DATABASE CENTRE	Centre de Informacion del Acuerdo Latinoamericano (CIALA) (Buenos Aires, Argentina)	Asia-Pacific Computerised Information System (APCIS)(Ottawa, Canada)
ADDRESS OF SECRETARIAT	Secretariat del Acuerdo Prefectura Naval Argentina Tel: +541 318 7433/7647 Fax: +541 318 7847/314 0317 Website: http://www.sudnet.com.ar/ciala	

The US Port State Control programme is not susceptible to the same tabular treatment and is covered on pages 28 to 44.

PARIS MEMORANDUM OF UNDERSTANDING (PARIS MOU)

PARTICIPATING MEMBER STATES – THE AUTHORITIES

Belgium*	Netherlands*
Canada	Norway
Croatia	Poland
Denmark*	Portugal
Finland	Russian Federation
France*	Spain*
Germany*	Sweden
Greece*	United Kingdom of Great Britain &
Ireland*	Northern Ireland*
Italy*	

PROSPECTIVE MEMBER

Iceland

*Countries asterisked are members of the European Union, and consequently, and in accordance with Council Directive 95/21/EC, these port States are obliged under EC law, and the enabling legislation promulgated by their own legislature, to give effect to the Directive, whose provisions now form part of the Paris Memorandum of Understanding.

AGENCY

Port State Control Committee, operating in conjunction with participating Maritime Authorities.

APPLICABLE INTERNATIONAL CONVENTIONS

Per Clause 2.1

LL 66/88	TONNAGE 69
SOLAS 74, 78 & 88	Merchant Shipping (Minimum Standard Convention).
MARPOL 73/78	ILO No.147
STCW 78	
COLREG 72	

“NO MORE FAVOURABLE TREATMENT” PRINCIPLE

Per Clause 2.4

In applying a relevant instrument, the principle of “No more favourable treatment” is applied to ships which fly the flag of a state which is not a party to that convention. In such cases, such ships will be treated in the same way as a ship to which the instruments are applicable.

TARGET INSPECTION RATE

GENERAL

Per Clause 1.3

25% annual inspection rate of individual foreign merchant ships per member state.

INDIVIDUAL COUNTRIES'

Approximate Inspection rates 1996

Belgium	4%	Croatia	not known
Canada	24%	Denmark	19%
Finland	35%	Norway	37%
France	23%	Poland	36%
Germany	25.5%	Portugal	14%
Greece	29%	Russian Federation	11%
Ireland	7.5%	Spain	36%
Italy	29%	Sweden	27%
Netherlands	26%	UK	35%

PARIS SHIP SELECTION CRITERIA

“Priority Inspection” per Annex 1, Section 1

As a rule, ships will not be inspected within six (6) months of a previous inspection in a port of a member of the Paris MOU unless (a) the inspectors have “clear grounds” for inspection or (b) the ship is of a kind which may be the target of a “priority inspection”. This applies to:

- Ships visiting a port of a state, the Authority of which is a signatory to the Memorandum, for the first time or after an absence of 12 months or more.

PARIS MEMORANDUM OF UNDERSTANDING (PARIS MOU)

- Ships flying the flag of a state appearing in the three-year rolling average table of above-average detention and delays.
- Ships which have been permitted to leave the port of a state, the Authority of which is a signatory on the condition that the deficiencies noted must be rectified within a specified period, on expiry of such period.
- Ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation. (93/75/EU Directive)
- Ships whose statutory certificates on the ship's construction and equipment, have been issued by an organisation which is not recognised by the Maritime Authority concerned.
- Ships carrying dangerous or polluting goods, which have failed to report all relevant information to the competent authority of the port and coastal state:
- Ships which are in a category for which expanded inspection has been decided.
- Ships which have been suspended from their class for safety reasons in the course of the preceding six months.

SPECIFIC TARGET CRITERIA FOR 1997/98

In addition, the database of the Paris MOU is used to determine which ship types have historically been the subject of most deficiencies and therefore may be targeted for inspection. Data is analysed to ship type, flag state and classification society. Further, the Paris MOU (1996) indicates that the following categories of ships will be subject automatically to an "expanded inspection" in the event that they do not pass the first inspection.

- Oil tankers
- Bulk carriers older than 12 years
- Passenger ships
- Gas/chemical tankers older than 10 years

all as set out in Annex 1, Section 8 of the Paris MOU

FIRST INSPECTION CRITERIA

Per Clause 3.1 and related provisions of Annex 1

As a minimum the inspectors will review the documentation carried by the ship:

1. International Tonnage Certificate (1969)
2. Passenger Ship Safety Certificate
3. Cargo Ship Safety Construction Certificate
4. Cargo Ship Safety Equipment Certificate
5. Cargo Ship Radio Telegraphy Certificate
6. Cargo Ship Radio Telephony Certificate
7. Cargo Ship Safety Radio Certificate
8. Exemption Certificate
9. Cargo Ship Safety Certificate
10. Document of compliance ISOLAS 74. Regulation [1.2/54]
11. Dangerous goods special list or manifest, for detailed stowage plan
12. Certificate of Fitness for the Carriage of Liquefied Gases in bulk
13. Certificate of Fitness for the Carriage of Dangerous Chemicals in bulk
14. International Oil Pollution Prevention Certificate
15. International Pollution Prevention Certificate for the Carriage of Noxious Substances in bulk
16. International Load Line Certificate or Exemption Certificate as appropriate
17. Oil Record Book, parts 1 and 11
18. Shipboard Oil Pollution Emergency Plan
19. Cargo Record Book
20. Minimum Safe Manning Document
21. Certificate of Competency
22. Medical Certificate (see ILO Convention No. 73)
23. Stability information
24. Copy of Document of Compliance and Safety Management Certificate issued in accordance with IMO Resolutions A.741 (18) & A.768 (19)
25. Certificates as to the ship's hull strength and machines installations issues by classification society
26. Survey Report Files (ie care of bulk carriers or oil tankers)
27. For Ro-Ro passenger ships, information on the A/A - max ratio
28. Document of authorisation for the carriage of grain

29. Special Purpose Ship Safety Certificate
30. High Speed Craft Safety Certificate and Permit to Operate High Speed Craft
31. Mobile Offshore Drilling Unit Safety Certificate
32. For oil tankers, the record oil discharge monitoring control system for last ballast voyage
33. The muster list, fire control plan and, for passenger ships, a damage control plan
34. Ship's log book with respect to the records of tests and drills, logs for records of inspection and maintenance of lifesaving appliances and arrangements.
35. Reports of previous Port State Control Inspections

In addition, the Inspectors will conduct an inspection of several areas on board, to verify that the overall condition of the ship (including the engine room and accommodation, and including hygienic conditions, tests, drills, musters etc.), all complies with the standards required by various certificates – see Sections 2 and 3 of Annex 1, or as appropriate, the “expanded inspections” criteria set out at Section 8 of Annex 1. In addition the Paris MOU stipulates the first inspection requirements for the STCW 78 and the ILO 147, at Sections 5 and 6 of Annex 1.

Further, it is to be noted that any Authority will, upon the request of another Authority, endeavour to secure evidence relating to suspected violations of the requirements on operational matters of Rule 10 of COLREG 72 and MARPOL 73/78 for procedures relating to this stipulation.

“GROUNDS FOR A MORE DETAILED INSPECTION”

If a ship is found to comply, the inspectors will issue a “clean” Inspection Report “A” and details will be logged on a central computer database. This report must be retained on board for two (2) years.

If valid certificates or documents are not on board, or if there are “clear grounds” to believe that the ship, its equipment or crew does not substantially meet the requirements of a relevant convention, a more detailed inspection will be carried out.

Clear grounds for a more detailed inspection include the following as set out in Section 4 of Annex 1:

1. a report or notification by another Authority
2. a report or complaint by the master, a crew member, or any person or organisation with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or the prevention of pollution, unless the Authority concerned deems the report or complaint to be manifestly unfounded. The identity of the person requesting the report or making the complaint must not be revealed to the master or the shipowner of the ship concerned.

3. the ship has been accused of an alleged violation of the provisions on discharge of harmful substances or effluents
4. the ship has been involved in a collision, grounding or stranding on its way to the port
5. the emission of false distress alerts not followed by proper cancellation procedures
6. the ship has been identified as a priority case for inspection with the exception of ships referred to in section 1, under 1, of this Annex (Priority Inspections)
7. the ship is flying the flag of a non-party to a relevant instrument
8. during examination of the certificates and documents referred to in section 2 of this Annex, inaccuracies have been revealed or the documents have not been properly kept or updated
9. the absence of principal equipment or arrangements required by the conventions
10. 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 weathertight integrity of the ship
11. excessively unsanitary conditions on board 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. indication 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
14. evidence of cargo and other operations not being conducted safely or in accordance with IMO guidelines
15. clear grounds under the provisions of STCW 78 (see section 6 of Annex 1)

ACTIONS REQUESTED TO RECTIFY DEFICIENCIES

In circumstances which warrant it, the inspectors may order an inspection to be suspended until the responsible parties have taken steps to ensure that the ship complies with the requirements of the Relevant Instruments. Where deficiencies are clearly hazardous to safety, health or the environment the inspectors may order the ship be detained.

In principle all deficiencies must be rectified before the departure of the ship concerned, subject to the limited exception that in the event that the inspectors allow a ship to put to sea in order to

PARIS MEMORANDUM OF UNDERSTANDING (PARIS MOU)

proceed to another port and/or repair yard for the purpose of effecting the necessary repairs.

(Per Clause 3.7.1 and Clause 3.8).

The following possible courses of action may be requested by the Port State Control officer conducting the inspection and can be found on the reverse side of Form B of the inspection report and are, in summary:

- Rectify deficiency immediately
- Rectify deficiency within 14 days
- Rectify deficiency at next port
- Rectify deficiency prior to departure
- Temporary substitution of equipment
- Letter of warranty issued
- Detention
- Ship allowed to sail after detention
- Next port ordered to re-detain

Note, however, at Clause 3.2 the general catch-all *"Nothing in these procedures will be construed as restricting the power of the Authorities to take measures within its jurisdiction in respect of any matter to which the relevant instrument relates"*.

DETENTION

GROUND FOR DETENTION

Per Clause 3.7.1

- Where deficiencies are clearly hazardous to health, safety or environment.
- Where deficiencies on a ship are so serious that they will have to be rectified before the ship sails.

JURISDICTION

Subject to the laws in force (including EU law) in the state in which the ship is detained.

ACTION TO BE TAKEN BY OWNER

Rectify defect in accordance with requests of the inspector.

FINES/PENALTIES/SECURITY FOR COSTS ETC

Per clause 3.12

- Costs accrued by Authority concerned will be charged to the owner (if the ship is detained).
- Detention will not be lifted until paid and/or adequate security given.

REMEDIES/APEAL PROCESS

Owner/operator has the right of appeal subject to the law of the state in which the ship is detained.

BLACKLISTING

No, but see below

DISSEMINATION OF INSPECTION RESULTS AND POST INSPECTION

FOLLOW-UP PROCEDURES

Under the Paris MOU each Authority agrees, as a minimum, to publish quarterly information concerning ships detained during the previous 3-month period and which have been detained more than once during the past 24 months. The information published includes the following:

1. name of the ship
2. name of the shipowner or the operator of the ship
3. IMO number
4. flag state
5. classification society, where relevant, and, if applicable, any other party which has issued certificates to such ship in accordance with the relevant instruments
6. reason for detention
7. port and date of detention

In the event of detention, the Report from Inspectors is sent to:

- Next port
- Owner
- Flag state or its Consul
- Classification Society
- Other MOU

Each Authority publishes information quarterly naming the ships detained during the previous three month period, such ships being kept on the listing for the following 24 months.

In addition, each Authority reports on all of its inspections and their results in accordance with procedures specified in the Memorandum at Annex 3 (Form A).

Arrangements have been made for the exchange of inspection information with the other regional MOU, as well as the flag states and the various international organisations such as the IMO and ILO (see Annex 4).

ASIA-PACIFIC MEMORANDUM OF UNDERSTANDING (TOKYO MOU)

PARTICIPATING MEMBER STATES – THE AUTHORITIES

Australia	Malaysia
Canada	New Zealand
China, including Hong Kong	Papua New Guinea
Special Administrative Region	Philippines
Fiji	Russian Federation
Japan	Singapore
Indonesia	Thailand
Republic of Korea	Vanuatu

PROSPECTIVE MEMBERS

Solomon Islands	Vietnam
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AGENCY

Port State Control Committee, operating in conjunction with the participating Maritime Authorities

APPLICABLE INTERNATIONAL CONVENTIONS

- International Convention on Load Lines, 1966 (LOADLINES, 1966).
- International Convention for the Safety of Life at Sea, 1974, and its protocol of 1978 (SOLAS, 1974/78).
- International Convention for the Prevention of Pollution from Ships, 1973, amended by 1978 Protocol (MARPOL, 73/78).
- International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW, 1978).
- 1972 Collision Regulations (COLREG 72).
- The Merchant Shipping (Minimum Standards) Convention 1976 (ILO Convention No. 147).

“NO MORE FAVOURABLE TREATMENT” PRINCIPLE

In applying the Memorandum, the principle of “*No more favourable treatment*” is applied to ships which fly the flag of a state which is not party to this convention. In such cases, such ships will be treated in the same way as a ship to which the conventions are applicable.

TARGET INSPECTION RATE

GENERAL

Preliminary target for the year 2000, subject to review, is a regional annual inspection rate of 50% of total number of ships operating in the area. Each Authority is to determine in time an “*appropriate annual percentage of individual foreign merchant ships*”. In 1994 the actual percentage achieved for the region was 32% rising to 50% in 1996.

INDIVIDUAL COUNTRIES’ INSPECTION RATES

Australia	23.7%	Malaysia	0.38%
Canada	3.18%	New Zealand	9.42%
China	10.04%	Papua New Guinea	0.02%
Hong Kong	2.04%	Russian Federation	2.85%
Japan	25.41%	Singapore	1.62%
Indonesia	15.21%	Thailand	0.02%
Korea	6.12%		

SHIP SELECTION CRITERIA

As a rule, ships will not be inspected within six (6) months of a previous inspection in a port of a participating Authority unless (a) the inspector has “clear grounds” for an inspection, or (b) the ship falls within the ambit of Clause 3.3. Per Clause 3.3 of the Tokyo MOU, “...*the authorities will pay special attention to...*”

- Ships which, according to the exchanged information have not been inspected by any authorities participating in the Tokyo MOU within a previous period of six months
- Passenger ships

ASIA-PACIFIC MEMORANDUM OF UNDERSTANDING (TOKYO MOU)

- Ro-Ro ships
- Bulk carriers
- Ships which may present a special hazard, including oil tankers, gas carriers, chemical tankers and ships carrying harmful substances in packaged form
- Groups of ships appearing in the three-year rolling average table of above average delays and detentions in the annual report of the Tokyo MOU
- Ships which have had several recent deficiencies

SPECIFIC SHIP SELECTION TARGET CRITERIA

In addition, the evolving database of the Tokyo MOU is employed to analyse which ship types have historically shown to have had a high proportion of deficiencies/been subject to detentions and, consequently, may be targeted for inspection.

FIRST-INSPECTION CRITERIA

As a minimum, the inspectors will review the relevant documentation carried by the ship:

1. International Tonnage Certificate (1969)
2. Passenger Ship Safety Certificate
3. Cargo Ship Safety Construction Certificate
4. Cargo Ship Safety Equipment Certificate
5. Cargo Ship Radio Telegraphy Certificate
6. Cargo Ship Radio Telephony Certificate
7. Cargo Ship Safety Radio Certificate
8. Exemption Certificate
9. Cargo Ship Safety Certificate
10. Document of Compliance (SOLAS 74, Regulation 11-2/54)
11. Dangerous goods special list or manifest, or detailed stowage plan
12. Certificate of Fitness for the Carriage of Liquefied Gases in bulk
13. Certificate of Fitness for the Carriage of Dangerous Chemicals in bulk
14. International Oil Pollution Prevention Certificate

15. International Pollution Prevention Certificate for the Carriage of Noxious Substances in bulk
16. International Load Line Certificate or Exemption Certificate as appropriate
17. Oil Record Book, parts I and II
18. Shipboard Oil Pollution Emergency Plan
19. Cargo Record Book
20. Minimum Safe Manning Document
21. Certificate of Competency
22. Medical Certificates (see ILO Convention No. 73)
23. Stability information
24. Copy of Document of Compliance and Safety Management Certificate issued in accordance with IMO Resolutions A.741 (18) & A.788(19)
25. Certificates as to the ship's hull strength and machine installations issued by classification society
26. Survey Report Files (in case of bulk carriers or oil tankers)
27. For Ro-Ro passenger ships, information on the A/A-max ratio
28. Document of authorisation for the carriage of grain
29. Special Purpose Ship Safety Certificate
30. High Speed Craft Safety Certificate and Permit to Operate High Speed Craft
31. Mobile Offshore Drilling Unit Safety Certificate
32. For oil tankers, the record oil discharge monitoring control system for last ballast voyage
33. The muster list, fire control plan, and for passenger ships, a damage control plan
34. Ship's log book with respect to the records of tests and drills, logs for records of inspection and maintenance of lifesaving appliances and arrangements.
35. Reports of previous Port State Control inspections

In addition, the inspectors will conduct an inspection of several areas on board, to verify that the overall condition of the ship (including the engine room and accommodation, and including hygienic conditions, tests, drills, musters etc.) all complies with the standards required by the various certificates and international conventions including the provisions of ILO 147 as regards crew and minimum standards and the related publication, "Inspection of Labour Conditions on board Ship: Guidelines for Procedure".

Further, any authority will, upon the request of another authority endeavour to secure evidence relating to suspended violations of the requirements on operational matters to Rule 10 of COLREG 72 and MARPOL 73/78.

“**GROUNDINGS FOR A MORE DETAILED INSPECTION**”

If a ship is found to comply, the inspector will issue a “clean” Inspection Report “A” and details will be logged on the central computer database. This report should be retained on board for six months. If valid certificates or documents are not on board, or if there are “clear grounds” to believe that the ship, its equipment or crew does not substantially meet the requirements of a relevant convention, a more detailed inspection will be carried out. “*Clear grounds*” include the following:

1. a report or notification by another Authority
2. a report or complaint by the master, a crew member, or any person or organisation with a legitimate interest in the safe operation of the ship, unless this complaint is clearly deemed to be unfounded
3. other indications of serious deficiencies having regard, in particular, to the Inspection guidelines contained in Annex I
4. evidence of operational shortcomings revealed during Port State Control procedures in accordance with SOLAS 74/78, MARPOL 73/78 or STCW 78
5. evidence of cargo operations or other procedures not being conducted safely or in accordance with IMO guidelines
6. involvement of the ship in incidents due to failure to comply with operational requirements
7. evidence from witnesses of fire or abandoned ship drills, that the crew are not familiar with essential procedures
8. absence of an up-to-date muster list
9. indications that key crew members may not be able to communicate with each other or with other persons on board

ACTIONS REQUESTED TO RECTIFY DEFICIENCIES

In principle, all deficiencies must be rectified before the departure of the ship concerned, subject to the limited exception that the inspectors may allow a ship to put to sea in order to proceed to another port and/or repair yard for the purpose of effecting the necessary repairs. Clauses 3.7 and 3.8

NOTE, however the general catch-all at Clause 3.2.3 “*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 instrument relates*”.

DETENTION

GROUNDINGS FOR DETENTION

Deficiencies hazardous to health, safety or environment

JURISDICTION

Subject to the laws in force in the state in which the ship is detained

ACTION TO BE TAKEN BY OWNER

Rectify defect in accordance with requests of the inspector

FINES/PENALTIES/SECURITY FOR COSTS ETC

None

REMEDIES/APEAL PROCESS

Owner/operator has the right of appeal subject to the law of the state in which the ship is detained

BLACKLISTING

None

DISSEMINATION OF INSPECTION RESULTS AND POST INSPECTION

FOLLOW-UP PROCEDURES

In the event of detention, the Report from Inspectors is sent to:

- Next port
- Owner
- Flag state or its Consul
- Classification Society
- Other MOU

In addition, each Authority reports all its inspections and the results thereof in accordance with procedures specified in the Memorandum.

Arrangements have also to be made for the exchange of inspection information with the other regional organisations working under similar Memoranda of Understanding, as well as the flag states and various international organisations such as the IMO and the ILO.

LATIN AMERICAN AGREEMENT (ACUERDO DE VIÑA DEL MAR)

PARTICIPATING MEMBER STATES – THE AUTHORITIES

Argentina	Mexico
Brazil	Panama
Chile	Peru
Colombia	Uruguay
Cuba	Venezuela
Ecuador	

AGENCY

Port State Control Committee, operating in conjunction with participating Maritime Authorities.

RELEVANT INSTRUMENTS

“*Pertinent Instruments*” are the following international conventions with their amendments, as set out at Clause 2.1

- International Convention on Load Lines, 1966 (LOADLINES, 1966)
- International Convention for the Safety of Life at Sea, 1974, (SOLAS, 1974)
- 1978 Protocol relating to the International Convention for the Safety of Life at Sea, 1974 (1978 SOLAS Protocol)
- International Convention for the Prevention of Pollution from Ships, 1973, amended by 1978 Protocol (MARPOL, 73/78)
- International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW, 1978)
- 1972 Collision Regulations (COLREG 72)
- International Convention on Tonnage Measurement of Ships (TONNAGE), 1969

“NO MORE FAVOURABLE TREATMENT” PRINCIPLE

At Clause 2.3,

“When applying the provisions of a (pertinent) instrument the Maritime Authorities shall enforce said provisions in such a manner that the ships authorised to fly the flag of a state that is not a party to the particular instrument/ convention shall not be granted a more favourable treatment.”

TARGET INSPECTION RATE

Clause 1.3 states that each Maritime Authority is to make an effort to reach a survey minimum of 15% of the different foreign ships that may have entered its ports during a representative 12 month period.

SHIP SELECTION CRITERIA

Clause 3.4 states that the Maritime Authorities should try to avoid surveying ships inspected by any of the other participating Maritime Authorities during the preceding 6 months, “*unless there exist clear indications of the need for surveying them*” or if the ships are of the type mentioned in Clause 3.3 of the Memorandum, in which case the inspectors “*shall carry out surveys as may deem proper*”.

Clause 3.3 states that “*when selecting ships for a survey the Maritime Authorities shall pay special attention to.....*”.

- Passenger ships, ro-ro ships and bulk grain carriers
- Ships which may pose a special risk, such as oil tankers, gas carriers, chemical tankers and ships carrying dangerous and/or harmful substances and goods in packages
- Ships which may have recently suffered repeated deficiencies

INSPECTION CRITERIA

Clause 3.1 states that, in fulfilling their obligations, the inspectors shall visit on board the ship in order to check the validity of the relevant certificates and documents, as well as the general condition of the ship, its equipment and crew, including compliance with operational requirements on board. In the absence of valid certificates or documents, or should there exist clear indications which lead the inspectors to consider that the ship, its equipment or crew do not basically meet the provisions of a pertinent instrument, then a more detailed survey should be carried out.

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All surveys are carried out in accordance with the guidelines set out for the inspectors at Annex 1 of the Agreement.

The guidelines for the first inspection criteria can be found at Annex 1 – Guidelines for Surveyor – and they contain the following:

MINIMUM MANNING AND CERTIFICATION REQUIREMENTS

In accordance with standards of the flag state relating to:

- SOLAS 74
- STCW 78
- IMO Resolution A.481 (XII) Annexes 1 and 2

all in conjunction and consultation with the flag state.

As regards adequate crew training and certification the following standards apply:

- Chapter V of the STCW Convention, 1978
- Resolution 10, 11 and 12 adopted by the International Conference on Training and Certification for Seafarers, 1978
- Pertinent sections of the Code for the construction and equipment of ships carrying dangerous chemical products in bulk
- Pertinent sections of the Code for the construction and equipment of ships carrying liquid gases in bulk

CREW CONTROL

Per 3.2.1: Should the ship be manned in accordance with the minimum manning document or equivalent issued by the ship flag state, the inspector should accept that the ship is manned safely unless the document has been issued without taking into account the principles contained in the pertinent instruments and in IMO guidelines for the application of minimum manning principles. If this is so, the inspector must consult with the flag state.

Per 3.2.2: Should the crew member or composition not comply with the provisions of the minimum manning document, the Port state should request the ship's flag state opinion as to whether the ship may or may not sail with its current crew number and composition. The request should be made as soon as possible. Should the crew number and composition differ from the minimum manning document, or should the ship flag state not confirm that it may sail under such condition, the ship may be detained.

Per 3.2.3: Should the ship not have a minimum manning document or equivalent, the Port state should request the flag state to specify the number of crew members required and their composition, and to issue a document in this respect as soon as possible.

Should the crew numbers and composition not comply with the direction received from the flag state, action may be taken pursuant to paragraph 3.2.2 i.e: the ship may be detained. Should the flag state not answer the request, this will be construed as a clear indication to conduct a more detailed survey of the ship. The ship may be authorised to sail only if it can do so safely, taking into account the detainment criteria set out in the Agreement.

NOTE: *"The minimum criteria to be applied should not be more stringent than those applied to ships flying the flag of the Port state. If there is no minimum manning document this is to be reported as a deficiency."*

CERTIFICATION CONTROL

Per 3.3.1: The general control of ship certification should be made pursuant to the procedures set forth in Article X and Regulation 1/4 of the STCW, 1978.

Per 3.3.2: In ships engaged in the transport of liquid dangerous cargo in bulk, certification control should be more stringent. The inspector should ensure that officers responsible for cargo handling and operation have a valid document certifying that they have received an adequate training and have the proper experience. No exemptions are accepted.

“GROUNDS FOR A MORE DETAILED INSPECTION”

At Clause 3.2.1: the Agreement states that, if valid documents or certificates are not present, or if there are clear indications that a pertinent instrument is not being adhered to, then a second inspection may be ordered. The Agreement states that the inspectors shall consider as “clear indications”, among others, the following:

- A report or notification from another Maritime Authority.
- A report or complaint from the Master of the ship, a member of the crew or any other person or organisation interested in maintaining the safety operations in the ship or in preventing marine pollution, unless the respective Maritime Authority considers that the report or the complaint are evidently groundless.

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- Other signs of various deficiencies (taking the guidelines of Annex 1 into account)
- For the purpose of verifying compliance with operational requirements on board “clear indications” includes:
 - a. Evidence of operational failures verified during Port State Control procedures of ships, pursuant to SOLAS 74, MARPOL 73/78 and STCW 78
 - b. Evidence that the loading and other operations were not made safely or according to IMO guidelines
 - c. Ship involvement in incidents arising from non compliance with operational requirements
 - d. Evidence, during fire fighting drills and/or ship deserting drills, that the crew is not familiar with basic procedures
 - e. Lack of an updated muster plan
 - f. Indications that it is impossible for the key members of the crew to communicate among themselves or with other persons on board

In addition, ships flying the flag of a state that has not signed the pertinent instruments will be automatically subject to a more detailed inspection (Annex 1 Clause 1.3)

Note the general catch-all at Clause 3.2.3: *“None of the provisions above shall be construed as a limitation to the Maritime Authorities’ power to take measures within their jurisdiction as regards any case connected to the pertinent instruments.”*

ACTIONS REQUESTED TO RECTIFY DEFICIENCIES

Upon completion of the inspectors’ survey the master receives a report in the form set out in Annex 3 of the Agreement which contains the survey results and the details of the measures taken. If the inspection is ‘clean’ then Form A is issued. Relevant ship data and the inspection result will be recorded on the central computer database located in Buenos Aires. The “Inspection A” Report must be retained and be made available for examination by Port State Control officers at all times.

Form B is completed in the event that deficiencies are found, together with details of any action taken.

At Clause 3.6 the Agreement states *“Each and every Maritime Authority shall make efforts to ensure that the deficiencies detected are corrected.”* Clause 3.8: provides that if it is not possible to rectify the deficiencies at the survey port, the Maritime Authority may authorise the ship to sail to another port. In such cases, the Maritime Authority shall notify the competent Maritime Authority of the region where the next port of call of the ship is located, and the flag state and any other Authority it deems proper to so notify.

DETENTION

GROUND S FOR DETENTION

Deficiencies posing a clear risk to safety or the marine environment. At Annex 1, Section 3.4 the Agreement states that:

“The following aspects should be taken into account prior to detaining a ship pursuant to Clauses 3.2 and 3.3 of the Agreement.

- *Length and nature of the intended service or trip*
- *Whether or not deficiencies pose a risk for the ship, people on board or the marine environment*
- *Whether adequate rest periods for crew members can be determined or not*
- *Size and type of ship and its equipment*
- *Characteristics of the cargo*

The absence of a deck officer or an engine room officer whose certification be a requirement should not constitute a reason to justify the ship detention, when this be in agreement with any provisions accepted as an exception by the ship flag state.”

JURISDICTION

Subject to the laws in force in the state in which the ship is detained.

ACTION TO BE TAKEN BY OWNER

Rectify defect in accordance with the request of the inspector.

FINES/PENALTIES/SECURITIES FOR COSTS ETC

None, except in relation to actual infringements of a convention.

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REMEDIES/APEAL PROCESS

Owner/operator has the right of appeal subject to the law of the state in which the ship is detained.

BLACKLISTING

None, but there is a detention list which is subject to very restricted circulation.

DISSEMINATION OF INSPECTION RESULTS AND PORT INSPECTION FOLLOW-UP PROCEDURES

INFORMATION ON DETECTED DEFICIENCIES

In case of deficiencies not fully remedied or temporarily repaired, a message is sent to the competent Maritime Authority of the region where the next port of call of the ship is located.

Each message contains the following information:

- | | |
|------------------------------|---|
| 1. IMO identification number | 11. To (country) |
| 2. Name of ship | 12. Port |
| 3. Type of ship | 13. Estimated date of arrival |
| 4. Flag of ship | 14. Date of survey |
| 5. Call sign | 15. Deficiencies to be corrected |
| 6. Gross register tonnage | 16. An account stating |
| 7. Year built | 17. Nature of deficiencies |
| 8. From (country) | 18. Measures proposed to correct the deficiency |
| 9. Port | 19. Name sender |
| 10. Date of sailing | |

In the event of detention, the Report from Inspector is sent to:

- Next port
- Owners
- Flag state, or its Consul
- Classification society
- Other MOU

DISSEMINATION OF INFORMATION

Arrangements have been made for the exchange of information with other regional MOUs, as well as the flag states and various international organisations such as the IMO and the ILO.

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AGENCY

The United States Coast Guard

JURISDICTION

Foreign ships operating in US waters are subject to inspection under Title 46 United States Code (USC) Chapter 33. Reciprocity is accorded to ships of countries that are parties to the International Convention for the Safety of Life at Sea (SOLAS) (46 USC 3303(a)). In addition, certain provisions of the pollution prevention and navigation safety regulations (33 Code of Federal Regulations (CFR) 154-156 and 164 respectively) apply to foreign ships operating in US waters.

RELEVANT INSTRUMENTS

APPLICABLE DOMESTIC STATUTES

- 46 United States Code (USC) 5101-5116. Load line requirements for foreign ships
- 46 USC 2101 (12) 3306(a)(5) and 49 USC 1801-1812. Safety requirements for carriage of dangerous articles and substances aboard foreign ships
- 46 USC 2101 (12) (21) and (35), 3504 and 3505. Safety requirements for foreign ships carrying passengers from any US port to any other place or country
- 46 USC 2101 (12), (21), (22) and (35), and Chapter 35. Inspection and certification requirements for all foreign passenger ships which embark passengers at and carry them from a US port. (These statutes are also relevant for ships having valid SOLAS 74/78 Certificates or Canadian Certificates of Inspection, that must be examined to verify compliance with the flag administration's safety verification requirement.)
- 46 USC 2101 (12) and (39), 3301 (10) and Chapter 37. Safety requirements that apply, with certain stipulations, to all foreign ships regardless of tonnage, size, or manner of propulsion, whether or not carrying freight or passengers for hire, that enter US navigable waters while carrying liquid bulk cargoes that are:
 - a. Flammable or combustible

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- b.** Oil of any type or in any form, including petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes, except dredged spoil
- c.** Designated as a hazardous substance under Section 311 (b) of the Federal Water Pollution Control Act (FWPCA) (33 USC 1321) or...
- d.** Designated as hazardous materials under Section 104 of the Hazardous Materials Transportation Act (HMTA) (49 USC 1803).
- 46 USC 2101 (21) and 3304. Permission for US ships transporting cargo to carry a limited number of individuals without being considered a “passenger ship” for most inspection purposes, and extension of this privilege to cargo ships of those nations that accord reciprocal treatment
- 46 USC 2101 (33) and 3301 (7). Directs that safety requirements of 46 USC Chapter 33 are applicable to seagoing motor ships of 300 or more gross tons
- 46 USC 2101 (35) and 3301 (8). Safety requirements for foreign small passenger ships carrying more than six passengers from a US port
- 50 USC 191. Requirements for security of ships, harbours and waterfront facilities, and provision for control of the movement of foreign ships in US waters by the local OCMI/COTP
- 33 USC 1221-1232. Statutes for advance notice of arrival and navigation safety regulations

APPLICABLE REGULATIONS

Most US regulations applicable to US and foreign ships, per Titles 33, 46 and 49 Code of Federal Regulations.

APPLICABLE INTERNATIONAL CONVENTIONS

- International Convention on Load Lines 1966, as amended, and its 1988 Protocol, (LOADLINES 66/88)
- International Convention for the Safety of Life at Sea (SOLAS), 1974, its Protocol of 1978, as amended, and the Protocol of 1988, (SOLAS 74/78/88)
- International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, as amended (MARPOL 73/78)

- International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended (STCW 78)
- Convention on the International Regulations for Preventing Collisions at Sea 1972, as amended (COLREG 72)
- Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention 147)
- International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1975 and the Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil, 1983

SHIP SELECTION – THE BOARDING PRIORITY MATRIX

Until 1994, the US Coast Guard’s ship boarding programme was largely ad hoc, but now they have developed a Boarding Priority Matrix to determine the probable risk posed by non-US ships calling at US ports. The Matrix is used to decide which ships Port State Control inspectors should board on any given day, in any given port. Ships are assessed in various categories and then added together for a total point score. This numerical score, along with other performance based factors, determines a ship’s boarding priority from Priority I through IV.

In developing this points system, the US Coast Guard has identified five features which directly influence a ship’s operational condition and compliance with international safety and environmental protection standards. These are:

1. Flag States
2. Classification societies
3. Owner and operators list
4. Ship type, and
5. History

The first three are particularly significant and are explained overleaf:

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FLAG STATES

The flag list is composed of those flag states whose detention ratios exceed the average detention ratios for all flag states whose ships call at US ports.

A flag state's detention ratio is ascertained by dividing the number of its ships which have been detained in the last three years by the total number of its ships which have called at US ports within the same period. For example, if a flag has had three of its ships detained during the last three years, and a total of 60 of its ships have had US port calls in the same period, the detention ratio would be: $3/60 \times 100\% = 5\%$. The average detention ratio is ascertained by dividing the total number of detentions by the total number of arrivals for all flag states.

The flag list is updated annually on 1 April and remains in effect for the ensuing twelve months. This information is sent to all Coast Guard Marine Safety Offices. A flag state is removed from the list when its detention average drops below the overall average flag state detention average or when it is associated with less than two detentions within a twelve month period.

CLASSIFICATION SOCIETIES

This consists of a two-stage process whereby any classification societies with less than ten arrivals to the US in the previous year are eliminated from the process.

Then, classification societies with more than ten distinct arrivals in the previous year are evaluated on their performance over the previous two years. Their performance is based on their detention ratio (number of detentions divided by number of distinct arrivals). This ratio is then compared to the average detention ratio (total number of detentions divided by the total number of distinct arrivals). Classification societies are then assigned points according to where their detention ratios fall in relation to the average detention ratio.

Below the Average Detention Ratio	=	0 Points
Between the average and 2 times the average	=	1 Point
Between 2 times and 3 times the average	=	3 Points
Between 3 times and 4 times the average	=	5 Points
More than 4 times the average	=	Priority I

This list is sent to all Coast Guard Marine Safety offices.

OWNER/OPERATOR LIST

The US Coast Guard Headquarters Ship Compliance Division (G-MOC-21) compiles a list of owners and operators associated with ships that have had more than one ship detained by the Coast Guard under the authority of an international convention within the last twelve month period. Any ship making a US port call that is owned or operated by a person or entity that has had that ship, or a different ship, subject to more than one intervention action within the last twelve months, is accorded high priority status.

The owners' list is updated monthly and is published on the USCG website and sent to all Coast Guard Marine Safety Offices.

POINT SCORE SUMMARY	
OWNER	LISTED OWNER 5pts
FLAG	LISTED FLAG STATE 7pts
CLASS	PRIORITY I (10 arrivals with detention ratio more than 4 times the average OR < 10 arrivals, but involved in a detention in the previous 2 years 5 POINTS (10 Arrivals with ratio between 3 & 4 times the average 3 POINTS (10 arrivals with ratio between 2 & 3 times the average 1 POINT (10 arrivals with ratio between average and twice the average 0 POINT (10 arrivals with ratio below average or < 10 arrivals. 0 detentions in the previous 2 years.
HISTORY	INTERVENTION WITHIN 12 MONTHS 8 Pts Esa OTHER OPER. CONTROL WITHIN 12 MONTHS 1PtEa CASUALTY WITHIN 12 MONTHS 1 PtEa NOT BOARDED WITHIN 6 MONTHS 1 PtEa
SHIP TYPE	OIL OR CHEMICAL TANKER 1 Pt GAS CARRIER 1 Pts BULK FREIGHTER > 10 YEARS 2 Pts PASSENGER SHIP 1Pts CARRYING LOW VALUE COMMODITIES IN BULK 2 Pts

BOARDING PRIORITY MATRIX – PRIORITY I-IV AND EFFECTS THEREOF

The points are added up for a total point score and the ship's boarding priority determined as follows:

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PRIORITY I SHIPS:

- 17 or more points on the Matrix, or
- Ships involved in a marine casualty, or
- Where USCG Captain of the Port determines a ship to be a potential hazard to the port or the environment or,
- Ships whose classification society has ten or more arrivals the previous year and which a detention ratio more than four times the average, or
- Ships whose classification society has less than ten arrivals the previous year and which have been associated with at least one detention

Port entry may be restricted until ship is examined by the Coast Guard. Priority I ships are targeted for examination prior to entry into US ports. Where feasible, these ships are boarded prior to port entry to ensure deficiencies are corrected. Otherwise, they are boarded upon entry and prior to commencement of cargo transfer operations or passenger embarkation.

PRIORITY II SHIPS:

- 7 to 16 points on the Matrix, or
- outstanding requirements from a previous boarding in this or another US port, or the ship is overdue for an annual tank or passenger exam.

Cargo operations may be restricted until ship is examined by the Coast Guard. Priority II ships are targeted for boarding prior to commencement of cargo transfer operations or passenger embarkation. An exemption to the requirement for boarding prior to commencement of cargo transfer operations or passenger embarkation may be granted if there are clear indications that the ship is in substantial compliance with applicable standards.

PRIORITY III SHIPS:

- 4 to 6 points on the Matrix, or
- alleged deficiencies reported, or
- the ship is overdue for an annual freight examination

Priority III ships may be targeted for boarding after entry into port, but no operational restrictions are imposed.

PRIORITY IV SHIPS:

- 3 or fewer points on the Matrix

Priority IV ships are not targeted for boarding, but may be boarded and examined by the US Coast Guard at the discretion of the local Captain of the Port or the Officer in Charge, Marine Inspection.

SHIP INSPECTION PRINCIPLES

In addition to the Boarding Priority Matrix the US Coast Guard has also published the 12 “principles” employed as guidance by its ship inspections. These are:

- Detentions are conducted only when a ship is unfit to proceed to sea or poses a threat to the marine environment
- Voyage damage will not be associated with a classification society non-conformity unless other class-related deficiencies are noted during the course of the damage survey
- Class non-conformities will only be associated with equipment covered by a survey, conducted by class, or in which class issued the certificate on behalf of the flag state
- When multiple deficiencies are noted, only those deficiencies serious enough to justify detention will be evaluated to determine class non-conformities
- Outdated equipment, when the cause of an intervention, will not be associated with a class non-conformity unless the equipment was outdated at the time of the last survey conducted by the class society on behalf of the flag state
- The absence of easily stolen equipment, such as fire hose nozzles and extinguishers, will generally not be listed as a class society non-conformity unless a large number are missing and the inspection takes place within 90 days of the last survey by the class society for the flag state

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- Expired certificates will not be associated with a class non-conformity unless the certificates were not endorsed or were improperly issued by the class society when it conducted the last survey for the flag state
- Interventions based on manning issues will not be listed as class non-conformities
- A time limit of 90 days will generally be placed on associating non-conformities with equipment failures, such as non-operational fire pumps and emergency generators, unless it is apparent that the deficiency is long standing
- Failure of human-factor-related testing – such as fire drills and abandon-ship drills – will be associated with a classification society non-conformity only when the class society issued the relevant certificate on behalf of the flag state within 30 days of inspection
- Serious wastage or other structural deficiencies not caused by voyage damage will be listed as a class society non-conformity

Note: The class society will be notified in writing in all cases of society non-conformities.

DEFINITIONS/TERMS OF REFERENCE

The following are key definitions and terms of reference employed by the USCG as part of its Port State Control programme:

Contravention. An act, procedure, or occurrence that is not in accordance with a convention or other mandatory instrument, or its operational annex.

Deficiency. A condition found not to be in compliance with the conditions of the relevant convention, law and regulation.

Detention. A control action which restricts a ship's right of free movement. The imposition of a restriction on the movement of a ship constitutes a detention regardless of whether or not a delay from a ship's normal or expected itinerary occurs. Detentions may be carried out under the authority of SOLAS 1974 as amended, Regulation 19, ICLL Article 21; MARPOL Article 5; STCW Article X and Regulation 1/4; ILO 147 Article 4; the Ports and Waterways Safety Act; or a US Customs detention.

Examination. The process of assessing a ship's compliance with the relevant provisions of applicable international conventions, domestic laws and regulations. The scope of an examination shall be to the extent necessary to verify the validity of the relevant certificates and other documents, and to ensure no unsafe conditions exist. An examination may include, but is not limited to, checks of documents, certificates, manuals, the ship's structural integrity, machinery, navigation, pollution prevention, engineering and safety systems, maintenance programmes and crew proficiency.

Intervention. A control action taken by a port state in order to bring a foreign flag ship into compliance with applicable international convention standards. Interventions are undertaken by a port state when a ship's flag state has not, can not, or will not exercise its obligations under an international convention to which it is a party. This may include requesting appropriate information, requiring the immediate or future rectification of deficiencies, detaining the ship, or allowing the ship to proceed to another port for repairs.

Nonconforming Ship. Any ship failing to comply with one or more applicable requirements of US law or international conventions is a nonconforming ship. A nonconforming ship is not necessarily a substandard ship unless the discrepancies endanger the ship, persons on board, or present an unreasonable risk to the marine environment.

Substandard Ship. In general, a ship is regarded as substandard if the hull, machinery, or equipment, such as lifesaving, firefighting and pollution prevention, are substantially below the standards required by US laws or international conventions, owing to:

- a. The absence of required principal equipment or arrangement
- b. Gross noncompliance of equipment or arrangement with required specifications
- c. Substantial deterioration of the ship structure or its essential equipment
- d. Noncompliance with applicable operational and/or manning standards or
- e. Clear lack of appropriate certification, or demonstrated lack of competence on the part of the crew.

If these evident factors as a whole or individually endanger the ship, persons on board, or present an unreasonable risk to the marine environment, the ship should be regarded as a substandard ship.

Valid Certificates. A certificate that has been issued directly by a contracting government or party to a convention, or on the behalf of the government or party by a recognised organisation, and

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contains accurate and effective dates, meets the provisions of the relevant convention, and corresponds to the particulars of the ship and its equipment.

TYPES OF EXAMINATION

USCG Port State Control examinations consist of annual examinations and then re-examinations or deficiency follow-up examinations. These examinations may be broadened in scope or depth into an expanded examination if clear grounds exist that lead a boarding team to believe that the condition of the ship or its equipment does not correspond with the certificates or the ship does not comply with applicable laws or conventions.

ANNUAL EXAMINATIONS

An annual examination consists of the specific procedures outlined in the freight, tank, or passenger ship examination chapters of the Marine Safety Manual. It includes an examination of the ship's certificates, licences and documents followed by a general examination, i.e. "walk through" of the ship to develop an impression of shell maintenance and the general state of the deck and side shell of the ship to determine its seaworthiness. It will also include examination and testing of specific equipment as well as the conduct of operational testing and emergency drills to ensure the crew's proficiency at carrying out critical tasks. As a minimum, the following items are part of each annual examination and are taken from the MSM Volume 1, Chapter 19, which sets out the requirements listed below in greater detail.

Certificates, Licences and Documents

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

11. International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk
12. Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk
13. International Oil Pollution Prevention Certificate
14. International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in bulk
15. International Load Line Certificate (1966)
16. International Load Line Exemption Certificate
17. Oil Record Book part 1 and II
18. Cargo Record Book
19. Minimum Safe Manning Document
20. Crew Licences or Certificate of Competency, Medical Certificates, of ILO Convention No. 73 concerning Medical Examination of Seafarers
21. Stability information

Areas/items/operations

1. Deck Portion
2. Hull Portion
3. Ballast Tank Entry
4. Load Lines
5. Seaworthiness
6. Voyage Damage
7. Machinery Spaces
8. Operation
9. Maintenance
10. Tests and Trials
11. Oil and Oil, Mixtures
12. Sufficient Power
13. Lifesaving Equipment
14. Fire Safety Equipment
15. Fire Doors
16. Ventilation Systems
17. Escape Routes
18. Navigation Safety
19. Cargo Ship Safety Construction Items
20. Cargo Ship Safety Radio Operation
21. Equipment in Excess of Convention or Flag State Requirements.
22. Garbage
23. Manuals and Instructions
24. Items to be Examined or Tested
25. Operational Tests
26. Muster List
27. Communication
28. Fire and Abandon Ship Drills
29. Damage Control Plan
30. Bridge Operation
31. Cargo Operation
32. Loading, Unloading, and Cleaning Procedures for Cargo Spaces of Tankers.
33. Dangerous Goods and Harmful Substances in Packaged Form.

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RE-EXAMINATIONS

A re-examination is an examination to ensure that a ship remains in compliance with appropriate US laws or international conventions between annual examinations. As with the annual examination, it usually consists of an examination of the ship's certificates, licences and documents, and a general examination conducted by walking through the ship. Except aboard passenger ships, a re-examination will not normally include operational testing or drills, but, in the case of foreign passenger ship re-examinations, the re-examination should include the witnessing of fire and abandon-ship drills to ensure that the ship's crew can adequately ensure the safety of the passengers in an emergency.

EXPANDED EXAMINATIONS

An expanded examination is a more detailed examination or testing conducted when an annual examination, re-examination, or deficiency follow-up establishes "clear grounds" for believing that the condition of a ship, its equipment or crew are not in compliance with applicable US laws or international conventions. Expanded examinations should focus on those areas where "clear grounds" have been established and should not include other areas or systems unless the general impressions or observations of the boarding team support such examination.

"CLEAR GROUNDS" FOR AN EXPANDED INSPECTION

To assist the boarding team, a list of deficiencies that establish "clear grounds" to expand an examination has been developed. The following deficiencies, grouped under the relevant conventions and/or codes, are considered of such a serious nature that they may warrant the detention of the ship involved. This list is not exhaustive.

GENERAL

Absent or invalid certificates required under applicable conventions.

SOLAS

- Failure of proper operation of propulsion and other essential machinery as well as electrical installations.
- Insufficient cleanliness of engine room; excess amount of oil-water mixture in the bilges; insulation of piping including exhaust pipes in engine room contaminated by oil; and improper operation of bilge pumping arrangements.

- Failure of the proper operation of emergency generator, lighting, batteries and switches
- Failure of the proper operation of the main and auxiliary steering gear
- Absence, insufficient capacity, or serious deterioration of personal lifesaving appliances, survival craft and launching arrangements
- Absence, noncompliance, or substantial deterioration – to the extent that it can not comply with its intended use – of fire detection system, fire alarms, fire fighting equipment, fixed fire extinguishing installation, ventilation valves, fire dampers and quick-closing devices.
- Absence, substantial deterioration, or failure of proper operation of the cargo deck area fire protection on tankers.
- Absence, noncompliance, or serious deterioration of lights, shapes, or sound signals.
- Absence, or failure of the proper operation, of the radio equipment for distress and safety communication.
- Absence, or failure of the proper operation of navigation equipment, taking the relevant provisions of SOLAS Chapter V/12(0) into account.
- Absence of navigation charts and/or all other relevant nautical publications necessary for the intended voyage, taking into account that electronic charts may be used as a substitute for the charts.
- Absence of non-sparking exhaust ventilation for cargo pump rooms.
- Serious noncompliance with procedures stipulated under the Certified Safety Management System on ships required to comply with SOLAS Chapter IX.

AREAS UNDER THE IBC CODE

- Transport of a substance not mentioned in the Certificate of Fitness of missing cargo information
- Missing or damaged high pressure safety devices
- Electrical installations not intrinsically safe or not corresponding to the code requirements
- Sources of ignition in hazardous locations

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- Contravention of special requirements
- Exceeding of maximum allowable cargo quantity per tank

AREAS UNDER THE IGC CODE

- Transport of a substance not mentioned in the Certificate of Fitness or missing cargo information
- Missing closing devices for accommodations or service spaces
- Bulkhead not gastight
- Defective air locks
- Missing or defective quick closing valves
- Electrical installations not intrinsically safe or not corresponding to the code requirements
- Ventilators in cargo area not operable
- Pressure alarms for cargo tanks not operable
- Gas detection plant and/or toxic gas detection plant defective
- Transport of substances to be inhibited without valid inhibitor certificate

AREAS UNDER ICLL

- Significant areas of damage or corrosion, or pitting of plating and associated stiffening, in decks and hull affecting seaworthiness or strength to take local loads. However, this is waived if authorised temporary repairs for a voyage to a port for permanent repairs have been carried out.
- A recognised case of insufficient stability
- The absence of sufficient and reliable information in an approved form which, by rapid and simple means, enables the master to arrange for the loading and ballasting of the ship in such a way that a safe margin of stability is maintained at all stages and at varying conditions of the voyage, and that the creation of any unacceptable stresses in the ship's structure is avoided
- Absence, substantial deterioration, or defective closing devices, hatch closing arrangements and watertight/weathertight doors

- Overloading
- Absent or improper draft and/or Load Line Marks

AREAS UNDER MARPOL ANNEX I

- Absence, serious deterioration, or failure of proper operation of the oily-water filtering equipment, the oil discharge monitoring and control system, or the 15 ppm alarm arrangements
- Remaining capacity of slop and/or sludge tank insufficient for the intended voyage.
- Oil record book not available
- Unauthorised discharge bypass fitted

AREAS UNDER MARPOL ANNEX II

- Absence of Procedures and Arrangements Manual
- Cargo not categorised
- No cargo record book available
- Transport of oil-like substances without satisfying the requirements or without an appropriately amended certificate
- Unauthorised discharge bypass fitted

AREAS UNDER STCW

- Number, composition, or certification of crew not corresponding with Safe Manning Document

AREAS UNDER ILO 147

- Insufficient food for voyage to next port
- Insufficient potable water for voyage to next port
- Excessively unsanitary conditions on board
- No heating in accommodation of a ship operating in areas where temperatures may be excessively low

For further details on the above points, consult the MSM Volume 1, Chapter 19.

INTERVENTION AND DETENTION

DETENTION

Interventions of the USCG, may involve:

- allowing the ship to sail with the deficiency uncorrected (e.g., a warning),
- corrective action prior to returning to a US port
- allowing the ship to proceed to a specific port for repairs
- denying port entry
- detaining the ship in port until the deficiencies are corrected.

If a USCG inspector takes an intervention action against a ship, the flag state must be notified of all the circumstances, in addition to the classification society as well as the International Maritime Organisation (IMO). If the ship is allowed to depart without all identified deficiencies being corrected, the USCG must also notify the authorities of the next port of call of the uncorrected deficiencies.

APPEALS PROCEDURE

A detention decision may be appealed under the provisions of Title 46, Code of Federal regulations (CFR), Part 1.03-20 of Title 33, CFR, Part 160.7. The appeal must be in writing within 30 days after the decision is made or action is taken, and should give reasons as to why the decision or action should be set aside or revised. It should be addressed to the Coast Guard officer in command where the decision was made or action was taken, generally the Officer in Charge, Marine Inspection (OCMI), Captain of the Port (COTP), or Commanding Officer, Marine Safety Office (CO, MSO).

If the initial appeal is unsuccessful, a formal appeal may be made to the District Commander. A further formal appeal may be made to Coast Guard Headquarters.

Note: While a request for reconsideration or a formal appeal is pending, the original decision or action remains in effect, unless specifically stayed by the District Commander or Headquarters.

DISSEMINATION OF DETENTION INFORMATION

BLACKLISTING – DETENTION INFORMATION

The Ship Compliance Division produces a List of Ships Detained, under the authority of Titles 14, 33, and 46, United States Code.

This List of Ships Detained includes the ship name, IMO number, date of detention, ship type, port, flag, classification society and deficiency summary.

The list is subject to change without notice based on appeals made by the owner, operator, and/or classification society.

GENERAL PUBLICITY INFORMATION

There is a lot of helpful information as to the criteria employed by the USCG published by the United States Coast Guard and available on the internet at <http://www.dot.gov/dotinfo/uscg/hq/g-m/psc/psc.htm>. See in particular the Marine Safety Manual, Volume 1, Chapter 19. The US Coast Guard Headquarters' Port State Control Branch may be reached at the following address:

Commandant (G-MOC-2)
US Coast Guard
2100 Second Street S.W
Washington DC 20593-0001

Arrangements have also been made to exchange information with other port state authorities international organisations, regional authorities, etc.