



After 40 years of regional and coordinated ship safety inspections: Destination reached or new point of departure?



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ABSTRACT

Port State Control (PSC) is the major global strategy for fighting substandard shipping since the signature of The Hague Memorandum in 1978. In the last years, the increased volume of trade, the enlarged number of main international conventions and the highlighted differences among the various Regimes have posed new challenges to the modern system of PSC, which may need to find its new course.

This paper examines the point of view of key maritime stakeholders with regard to the EU PSC regime. Elite interviews (n = 14) were conducted with subject matter experts ranging from policy makers, to industry and seafarers' representatives. The study aims to determine factors leading to difference in treatment among EU Member States. The study concludes that PSC in Europe seems to be the most efficient and reliable of the regional agreement on PSC. However, some discrepancies during the inspection process and outcome can be highlighted due to differences at the inspector and Member State level.

1. Introduction

Since the emergence of the various regional agreements, Port State Control (PSC) has become a robust and omnipresent reality in the maritime day-to-day operations, or what Bloor et al. (2006) define as an 'enforcement agency'. On March 2018, the shipping industry will approach the 40th anniversary of the Amoco Cadiz disaster, which accelerated the emergence of those agreements for coordinated ship safety inspections. Accidents such as the Aegean Sea (1992), Braer (1993), Estonia (1994), Erika (1999) and Prestige (2002), caused a strong political and public outcry for more stringent regulations regarding safety of ships and protection of the maritime environment. In line with this appeal, regional cooperation and coordination for ship inspections were established and responded to the general belief that many of the existing flag States were ineffective to thoroughly fulfil their obligations on their vessels (Anderson, 1998; Bloor et al., 2006; Özçayır, 2009; van Leeuwen, 2015).

The Hague Memorandum had been just signed when two weeks after, the Amoco Cadiz ran aground off the coasts of France spilling more than 200,000 t of oil and making clear, out and loud, that shipping failed in coping with new challenges and, more importantly, in self-controlling its vessels (Anderson, 1998; Bell, 1993; Mansell, 2009; Özçayır, 2004; Vorbach, 2001). It was at the Ministerial Conference held in Paris in 1982 that 14 European states conceived

the first regional coordinated system of ship inspections by signing the Paris Memorandum of Understanding on Port State Control (Paris MoU) in the attempt to stem the proliferation of substandard shipping. However, it was not until 1995 that PSC became a European Union (EU) initiative with the implementation of Directive 1995/21/EC on PSC which made the Paris MoU system mandatory for EU Member States (MSs). The Directive represents the predecessor of the current legislative instrument, in force since 1st of January 2011: Directive 2009/16/EC, as amended by Directive 2013/38/EU.

Since its introduction, the areas of application of PSC have greatly increased. While enforcement provisions have been included in recent conventions, such as the Maritime Labour Convention (MLC) or the Ballast Water Management (BWM) Convention, inspection results are also widely used to determine Flag State performance resulting in the compilation of a Black-White and Grey (BWG) list. However, despite the major efforts, discrepancies in harmonization efforts were found by different studies (Anderson, 2002; Bloor et al., 2006; Cariou et al., 2009; Hjorth, 2015; Knapp and van de Velden, 2009; Knudsen and Hassler, 2011; Ravira and Piniella, 2016; Sampson and Bloor, 2007) asserting that PSC 'does not have uniform application in all different regions and sometimes not even within the same MoU' (Özçayır, 2009).

This article does not aim to be a historical review of PSC; it is taken for granted that the increased use of coordinated and harmonised ship safety inspection efforts has profoundly impacted the shipping industry

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and increased safety standards (Anderson, 2002; Cariou et al., 2008; Hare, 1997; Özçayır, 2009; Vorbach, 2001). Rather, the purpose of this article is to investigate what are the main factors contributing to the disparities in harmonization among EU MSs by focusing on Directive 2009/16/EC, as amended. According to this objective, ten elite interviews with fourteen key experts in the maritime domain were conducted covering a large spectrum of policy-makers (European Commission, EMSA, Paris MoU Secretariat), ship-owner representatives (BIMCO, INTERCARGO, INTERTANKO, INTERMANAGER), classification societies representatives (IACS) and seafarers' representatives (Nautical Institute, CESMA).

2. Literature review – A glance at the past

Two of the main reasons to develop regional cooperation for PSC were undoubtedly the need for sharing information between states about the safety records of vessels and to avoid that a vessel was inspected at every port within the same region (Hare, 1997). At the same time, this was underpinned by providing harmonised rules and standards for inspection procedures. By setting a common standard, MoUs' goal is to avoid unilateral action by Port States which could have a negative impact on the neighbourhood ports within the same region, reducing their commercial attractiveness (Molenaar, 2007), and distorting the market (Knapp and Franses, 2007a). In parallel, discrepancies may influence the outcome of performance measurement such as the BWG list (Perepelkin et al., 2010), by differing safety records and targeting factors.

Issues in the harmonization and standardization process have been identified since the emergence of the first MoUs. While major academic studies have focused on the legal basis for Port State jurisdiction (Anderson, 1998; Bang, 2009; Bell, 1993; Keselj, 1999; Molenaar, 2007; Özçayır, 2004; Payoyo, 1994) and the improvement of the targeting system (Anderson, 2002; Cariou et al., 2009; Cariou and Wolff, 2015; Degré, 2007, 2008; Sage, 2005), inconsistencies in the application of PSC were already highlighted by Plaza (1994). In the study conducted by Sampson and Bloor (2007), the perception of inconsistencies in inspection practices between different countries in different MoUs emerged during stakeholders interviews and field studies. Differences in treatment were also underlined by Knapp and van de Velden (2009) and Knudsen and Hassler (2011), which concluded that a degree of harmonization and uniformity across the various PSC MoUs is far from being reached. Nevertheless, studies targeting inconsistencies within the same region are scarce (e.g., Cariou et al., 2009) and none of those regard the EU as their main focus.

Özçayır (2009) was concerned by the lack of uniform application of inspection standards. The author suggested that if, on the one hand, insufficient funds and lack of personnel are the main contributors for differences among states, the subjectivity of PSC Officers (PSCO) for detaining vessels on the basis of their professional judgment represents a major drawback rooted in their background and training. This aspect of discretion in PSCOs is re-evoked and reinforced by Bloor et al. (2006) in the results of an ethnographic-inspired study which involved 3 maritime authorities, more than one hundred observations on board and around 30 interviews with key stakeholders. In their study on cross-national (rather than within-national) differences in inspection practices, the background of the inspector emerged as one contributing factor.

Following the stream of PSCO's background and training, Knapp and Franses (2007b) suggested that the probability of detention appears to be slightly higher if the inspection is conducted by an inspector with engineering background compared to nautical background. Similarly, Ravira and Piniella (2016) analysed the influence of the professional background of PSCOs within the framework of the Spanish Administration. The authors concluded that both professional background and the use or lack of teams for the conduction of an inspection has an influence on the inspection outcome.

While the literature has shown that some inconsistencies may be found in the various regions, this study focuses on those which emerge within the same region and, specifically, the EU region. Lastly, this article aims not only at unrevealing disparities, if any, but also to the underlying contributory factors.

3. Methodology

The reported findings are derived from an interview study designed to accommodate ten elite interviews with fourteen participants.

3.1. Elite Interviews and purposive sampling

An elite interview is a type of interview mainly used in political science to understand hidden elements of policies and/or legislation by interviewing high-officials or people holding a prestigious role in society (e.g. politicians, civil servants, legislators, etc.) (Boucher et al., 2013 citing Dexter 1970; Richards, 1996). For this reason 'elite interview samples tend to be a lot smaller' (Richards, 1996). A purposive sampling was deemed appropriate for this study due to the narrow research focus and the specific and unique context/case (Miles et al., 2013).

The key requisite for the choice of participants was to cover the wide spectrum of stakeholders involved in PSC. The demographic could not be presented in this paper and will not be shared to the readers for confidentiality reasons and due to the high-profile of the interviewees. All information that could be shared is presented in Table 1.

A semi-structured interview was chosen in order to unveil a broad amount of themes/areas to be explored during the interview. The interview guide (Appendix A) was developed and tested with one representative of the United States Coast Guard with long-standing experience in PSC inspections and one senior researcher in the area of communication and sociology. The interview is part of a larger study on Port State Control. This paper focuses on questions relevant to Section 4 and Section 5 of the Interview Guide in Appendix A.

Prior to the interview, all participants were informed of the average time for the interview (30–45 min). The interviews started by presenting the overall scope of the study and by providing information on the participants' rights. Thereafter, the informants were asked to sign a consent form and complete the demographics sheet. The interviews were recorded with permission.

3.2. Critical case study

The focus of this paper on the Paris MoU lies in the peculiar nature of the regime which makes it arguably a 'critical case' scenario (Goldthorpe, 1968). In their study on whether empirical evidence would support the emergence of the notion of *embourgeoisement*, the

Table 1
Elites participating in the interviews, their Organization and Background.

Participant ID	Organization	Background
P1	European Commission	Law
P2	EMSA	Master Mariner & PSCO
P3	EMSA	Other & PSCO
P4	BIMCO	Master Mariner
P5	INTERTANKO	Master Mariner
P6	IACS	Naval Architecture
P7	INTERMANAGER	Master Mariner
P8	NAUTICAL INSTITUTE	Master Mariner
P9	INTERCARGO	Naval Architecture
P10	CESMA	Master Mariner
P11	Paris MoU Secretariat	Master Mariner
P12	Paris MoU Secretariat	Master Mariner
P13	CESMA	Master Mariner
P14	CESMA	Master Mariner

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