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PORT STATE CONTROL IN THE CARIBBEAN

This edition of the FAL Bulletin describes and analyses the control of ships at ports – the so-called “Port State Control” – in the Caribbean. It is based on a text supplied by Mr. Curtis A. Roach, Regional Maritime Safety Advisor, CARICOM; email adviser@carib-link.net

Under international maritime law, it is the registering States that have the obligation to ensure that vessels flying their flag conform to appropriate standards. This is known as Flag State Implementation (FSI) and it is the primary function of national maritime Administrations.

Conversely, States also have the right to inspect and control foreign vessels while within their jurisdiction to ensure compliance with international maritime safety and pollution standards. The exercise of this right is known as Port State Control (PSC). The effective exercise of that right is dependent in the first instance on the availability of capacity within the national maritime Administration for effective FSI.

Historical overview of Port State Control

In 1978, a number of maritime authorities in Western Europe developed the Hague Memorandum which dealt mainly with enforcement of shipboard living and working conditions as required by the International Labour Organisation (ILO) Convention 147. However, just as the memorandum was about to come into effect in March 1978, the Amoco Cadiz incident occurred creating a massive oil spill off the coast of France. This incident provoked demands in Europe for more stringent regulations with respect to the safety of shipping. As a result a more comprehensive memorandum was formulated, covering safety of life at sea, prevention of pollution by ships and living and working conditions on board ships.

This memorandum, known as the Paris Memorandum of Understanding (MOU) on Port State Control was adopted in January 1982 by fourteen European countries and became effective in July 1982. Since that date the Paris Memorandum has been amended several times to take into account new safety and marine environment requirements developed by the International Maritime Organization (IMO). The Paris MOU requires each State party to inspect a minimum of twenty-five percent of all foreign ships entering its ports in a year in an effort to eliminate substandard ships.

It should be clearly understood that the responsibility for ensuring that ships comply with the provisions of the relevant instruments rests on the owners, masters and the flag States. Unfortunately certain flag States for various reasons fail to fulfil their commitments with international maritime

instruments and therefore there are some ships sailing the seas in an unseaworthy condition. Substandard ships threaten the lives of their crew, the marine environment and port installations. Regional Port State Control is an international initiative which requires regional and international cooperation. It is a system of harmonized inspection procedures designed to target substandard ships with the main objective being their eventual elimination.

In 1991 the International Maritime Organization recognised the important contribution to maritime safety and pollution prevention made through regional cooperation under the Paris MOU in preventing, without discrimination as to flag, the operation of substandard ships. The IMO invited Governments to consider including regional agreements on the application of Port State Control measures in cooperation with the Organization.

At present there are six regional Port State Control (PSC) agreements in operation, namely:

- The Paris Memorandum of Understanding on Port State Control (Paris MOU), adopted in Paris on 1 July 1982;
- The Acuerdo de Viña del Mar (Viña del Mar or Latin-America Agreement), signed in Viña del Mar (Chile) on 5 November 1992;
- The Memorandum of Understanding on Port State Control in the Asia-Pacific Region (Tokyo MOU), signed in Tokyo (Japan) on 2 December 1993;
- The Memorandum of Understanding on Port State Control in the Caribbean Region (Caribbean MOU), signed in Christchurch (Barbados) on 9 February 1996;
- The Memorandum of Understanding on Port State Control in the Mediterranean Region (Mediterranean MOU), signed in Valletta (Malta) on 11 July 1997; and
- The Indian Ocean Memorandum of Understanding on Port State Control (Indian Ocean MOU), signed in Pretoria (South Africa) on 5 June 1998.

Planning and preparatory meetings are currently being held with a view to establishing PSC agreements in the West and Central African Region, the Persian Gulf Region and the Black Sea Region.

The need for adherence to global standards in the Caribbean

Over 90% of the Caribbean's intra-regional and external trade is carried by a variety of regular liner and tramp merchant ships which pass through regional ports. Ocean transport moves a variety of solid and liquid bulk cargoes which require varying complexities of vessel, crew competence and shore-side support. There is also a proliferation of smaller, regionally-owned ships operating the inter-island trade moving dry goods and agricultural cargoes. These ships provide an invaluable service especially to the Eastern and Southern Caribbean region since they transport cargo and passengers and provide an indispensable link to ports not normally covered by other sources. Maritime transport is therefore vital for the conduct of regional and international trade in the Caribbean.

Despite the critical role which the inter-island fleet plays in regional shipping, there are many safety and commercial problems associated with its operation. Most of these vessels are of an average age of just over thirty-five years (data obtained from 21 vessels currently engaged on intra-regional trade gave ages ranging from 14 to 96 years with an average of 38 years.). For the most part, the vessels are unclassified, sub-standard and extremely vulnerable to accidents. Crews often have no formal training and as a result, cargo is often improperly stowed and accidents are frequent. There are attendant consequences for the crew and the environment, and negative effects on social and economic conditions in some of the States and Territories concerned.

Like all other vessels engaged in international voyages, particularly those of over 500 gross tonnes, Caribbean-registered ships need to comply with the international rules and standards on maritime safety, marine environment protection and living and working conditions on board ships that are adopted, respectively, by IMO and ILO.

It is imperative therefore that the Caribbean States and Territories take their part in the modern maritime regulatory framework for the sector and effectively fulfil their role in reducing the operation of sub-standard ships in the Caribbean, particularly in the light of increased enforcement activities in other regions which make unregulated areas more attractive to sub-standard operators. Such a framework requires the existence of a modern maritime administration, fortified by modern maritime legislation, the supporting regulations and the requisite complement of administrative and technical resources. These are necessary to ensure the safe conduct of shipping activities (whether by foreign- or regionally-owned vessels) as well as the protection of the marine environment, both of which are vital to the economies of these countries.

In this context, data on the merchant/fisheries fleet registered in the region, as at 31 December 1998, shows that the fleet of the Caribbean States and Territories represents some 5.80% of the number of vessels in the world fleet, and some 8.23% of the world's gross tonnage, with the result that the region carries significant flag State responsibilities. Indeed, in terms of tonnage, The Bahamas now ranks as the third largest ship registry in the world, with the following States or Territories falling within the world's 50 largest registries: St. Vincent and the Grenadines (15th), Antigua and Barbuda (33rd), Belize (38th), and the Cayman Islands (49th).

While the Caribbean does not yet have a comprehensive, mutually-agreed strategy for the maritime sector because of the diverse national priorities, in the interests of eliminating sub-standard shipping and protecting the marine environment, the countries of the Caribbean have agreed that both FSI and PSC activities should form a major part of an overall maritime development strategy for the region. To this end, and with the support of IMO and ILO, various technical assistance programmes have been carried out in the Caribbean in the last two decades, all of which sought to strengthen institutional and human resource capacities in the region for the effective exercise of flag, port and coastal State jurisdiction. All of the programmes provided support for the establishment of maritime Administrations, the preparation of modern legislation and the training of administrative, legal and technical personnel.

As a result of such support, the Caribbean region is making progress in developing and enforcing the required maritime regulatory framework, and this includes the adoption of the MOU on PSC. By itself, however, the PSC system cannot ensure the eradication of sub-standard shipping – and thereby guarantee safe and efficient shipping services – unless the region also implements its flag State responsibilities and the national maritime Administrations have been appropriately established and strengthened.

The Trinidad and Tobago experience

Early in 1991, as a result of monitoring the seaworthiness of vessels calling at its ports, the Trinidad and Tobago maritime administration became concerned at the number of small trading vessels originated in the Eastern Caribbean that were in breach of national and applicable international safety requirements. These vessels were a danger to their crew, the environment and the intra-regional trade. The Trinidad and Tobago maritime administration recognised that because of the important role that these vessels played in the movement of intra-regional cargoes, their removal from service because of unseaworthiness could have significant adverse repercussions. It was further recognised however, that the situation could not be

allowed to go on unheeded because the breaches of safety and environmental norms posed intrinsic hazards to Trinidad and Tobago ports and waters.

The neighbouring countries of St. Vincent and Grenada were consulted and senior officials from both countries expressed interest in improving the safety standards of the vessels and agreed to cooperate to this end. Bilateral agreements were drawn up individually with St. Vincent and the Grenadines and Grenada for cooperation in the carrying out of Port State Control inspections. Mechanisms were identified for dealing with resultant problems regarding their vessels. Consequently, Trinidad and Tobago began carrying out detailed inspections on the intra-regional fleet and linked their continued trading into the country to their gradual elimination of the deficiencies identified in the inspection. Gradual improvement of the standard of ships in the intra-regional trade began to take place.

The Caribbean Memorandum of Understanding

In August 1993, Barbados invited the International Maritime Organization to commence a process to introduce of a system of Port State Control in the Caribbean. This was against the background that the Caribbean Sea is an area that is vulnerable to the effects of marine pollution which could have devastating effects on the economies of the countries of the Region, and that there are a number of substandard ships operating in the Region, engaged in intra-regional and extra-regional trade.

The IMO carried out a review of the Region's maritime safety mechanisms and procedures dedicated to surveys and inspection requirements in accordance with the international conventions and in 1993 commenced a process of meetings to discuss the drafting of a Port State Control agreement of cooperation between maritime authorities in the Region. In February 1996 representatives of twenty-two maritime administrations of the wider Caribbean met in Barbados and adopted the Caribbean Memorandum of Understanding of Port State Control (CMOU) and a plan for the training of Port State Control officers of the Region. The CMOU differed from the Paris and Tokyo MOU in that it recognised the limited capability of the Region to carry out effective Port State Control inspections immediately, but expressed a determination to do so in the shortest possible time. The Caribbean MOU committed each authority to endeavour to achieve within the period of three years of the coming into effect of the memorandum an annual total of inspections corresponding to fifteen percent of the estimated number of foreign merchant ships visiting its ports. It also developed the Caribbean Cargo Ship Safety Code applicable to cargo ships of under 500 gross tonnage but which are over 15 metres in length. These standards take into account applicable international maritime instruments, are used as the guideline for Port State Control inspections of small ships. They are accepted by the United States Coast Guard and applied to guide the conduct of United States Port State Control inspections of Caribbean ships.

To date eleven Caribbean States have accepted the MOU namely – Antigua and Barbuda, Aruba, the Bahamas, Barbados, Cayman Islands, Cuba, Grenada, Guyana, Jamaica, Netherlands Antilles and Trinidad and Tobago. The Secretariat is established in Barbados and the Caribbean Maritime Information Centre, in Curacao, Netherlands Antilles.

Caribbean countries are currently involved in several activities in order to fully carry out their obligations under the Memorandum. These include developing the necessary legislative regimes, ratifying the International Instruments identified in the Memorandum of Understanding, and establishing or strengthening as necessary their maritime administrations, with assistance from regional and international agencies, to be able to effectively carry out the inspections required under the relevant international maritime instruments.

Port State Control Inspections

When the CMOU was signed in 1996 only Trinidad and Tobago was carrying out PSC inspections with the focus mainly on the intra-regional fleet and generally within the context of maritime safety agreements with neighbouring countries. Today seven countries are conducting Port State Control inspections in accordance with IMO's Procedures for Port State Control. The results of these inspections are being sent to the Information Centre in Curacao. At least two of these countries have met their obligation to inspect 15% of the ships visiting their ports.

The Caribbean Maritime Information Centre in 1998 reported that fifty-six inspections were made by four of the countries, 88% of these inspections on dry cargo ships. About two-thirds of all the vessels inspected were ships of over 500 gross tonnage. Thirty of the ships inspected were found to have a total of two hundred and fifty-nine deficiencies which resulted in 20 detentions. However, the number of ships with deficiencies of over 500 gross tonnage were the same as that for ships of less than 500 gross tonnage and both groups of ships had the same number of detentions. Just over 30% of the deficiencies identified were in respect of life saving appliances, 12% in respect of fire fighting appliances, 10% being load line deficiencies and 9% relating to ships certificates and log books. This information has been used to target inspections especially on the smaller ships as it is clear that they are the ones need the most attention. It is expected that in a fairly short time there should be improvement in the standard of the ships trading in the Region.

Port State inspections in 1999, carried out by authorities in the Caribbean

Country	Number of inspections	Number of inspections which detected deficiencies	Number of deficiencies	Number of detentions
Antigua and Barbuda	1	1	7	0
Bahamas	17	4	7	0
Barbados	30	4	7	2
Cayman Islands	4	3	5	0
Jamaica	64	13	82	3
Netherlands Antilles	14	10	56	5
Trinidad and Tobago	58	28	424	1
All Caribbean MOU Authorities	188	64	604	11

Source: Caribbean Maritime Information Center (CMIC) Report

Current Developments

The countries of the region have shown a strong commitment to develop and strengthen maritime administrations. In March 1999, CARICOM organised a High Level Symposium on International Maritime Development in the Caribbean which was attended by several Caribbean Ministers and high officials responsible for maritime transport, The Assistant Secretary-General of CARICOM and the Secretary General of IMO. The Symposium adopted a resolution through which the participating States and Territories of the region committed themselves to:

- Increasing the level of accession to, or ratification of, the IMO and ILO instruments related to maritime safety, marine environment protection and living and working conditions on board ships;

- Implementing effectively international maritime rules and standards and in a uniform manner through, inter alia, the preparation, enactment and enforcement of appropriate national maritime legislation and regulations;
- Establishing or strengthening national maritime administrations to effectively carry out their responsibilities as coastal, Flag, and Port States in accordance with international maritime rules and standards;
- Providing the necessary means and support to their national maritime Administrations, coast guard and similar services, maritime training centres and port Authorities to equip them with sufficient numbers of qualified officers in the administrative, legal, scientific and technical disciplines relating to the maritime sector;
- Ensuring that the personnel of national maritime administrative and other relevant agencies receive continuous education and training so that they are able to keep abreast of regulatory and technological developments, quality standards and best practices in the maritime field;
- Increasing co-operation among the States and Territories of the region for the effective performance of flag State and Port State Control activities through, inter alia, the sharing of experience, expert services, information and training opportunities; and
- Increasing acceptance of, and giving full effect to, the Caribbean MOU on Port State Control and the Caribbean Cargo Ship Safety Code.

Where necessary the States and Territories of the region are also benefiting from technical assistance programmes being carried out by CARICOM and the IMO. The expectation is that the training components identified in IMO's Technical Cooperation Programme for the Caribbean for the 2000 - 2001 biennium will strengthen considerably the human resources capacity of the Region, and consequently provide a beneficial effect on Port State Control activities.

It is expected therefore that within three years there should be many more countries carrying out Port State Control activities in the Caribbean thus reducing severely if not eliminating operations of substandard ships and closing off one of the remaining so-called safe havens for these vessels.
