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Port State Control: Perception on Conflicts

Master's thesis in the International Master's Programme in Maritime Management

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MASTER'S THESIS IN THE INTERNATIONAL MASTER'S PROGRAMME IN
MARITIME MANAGEMENT

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ABSTRACT

Port State Control has become an important aspect in the enforcement of international regulations. The practice of Port State Control was implemented in recognition to the fact that certain flag states were unable or unwilling to enforce international rules and standards on vessel in their register. Since the start of the regional cooperation under Paris Memorandum of Understanding in Europe has the regime of Paris MoU seen much development. The means of assuring that foreign vessels are in compliance with international regulations range from detaining substandard vessels to using information systems to raise awareness with the general public and also as a warning system for substandard vessels. Through the Paris MoU website can any person access information on the results of an inspection of a vessel, which has been inspected by a member state of Paris MoU. This information has an impact on a shipping company commercial position, as charterers can easily access the inspection record on any vessel. With the high stakes following an inspection is it not unlikely that conflicts can emerged between the two parties, the authority and the ship owner. This thesis explores the different perceptions on conflicts around Port State Control inspections. The available Appeal procedures for ship owners in the member states and Paris MoU have been mapped to examine the means for a ship owner to raise concerns in case a mistake has been made in an inspection. The findings show a high difference on the perceptions. The authorities which participated in the research indicated no conflicts, while the participating shipping company and shipping association gave the opposite view and an indication of unreported cases are common. Plausible causes for conflicts has been identified as interpretation of regulations and improperly trained crews and Port State Control Officers. Following these findings was the development of Paris MoU and the STCW code examined. The examinations showed that Paris MoU has developed vastly in recent time while the STCW code has not seen any major developments in the competences connected to ensuring compliance with legislative requirements. Recommendations to ship owners has been identified which includes internal education and utilization of coming Paris MoU publications. The final findings of this thesis points to that further research in the area can bring further light on the subject, for which the available previous research has been severely limited.

Key words: Appeal, Conflicts, Port State Control, Paris MoU, ship owner, STCW code

Hamnstatskontroll: Uppfattningar av konflikter

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SAMMANFATTNING

Hamnstatskontroll har blivit en viktig aspekt inom upprätthållandet av internationella regelverk. Utövningen av hamnstatskontroll implementerades efter igenkännandet av att vissa flaggstater var oförmögen eller ovilliga att upprätthålla följandet av internationella regler och standarder hos fartyg i deras register. Sedan starten av regions samarbetet under Paris Memorandum of Understanding i Europa har regimen sett mycket utveckling. Medlen för att säkerhetsställa att utländska fartyg uppfyller internationella regelverk sträcker sig från att lägga nyttjandeförbud på understandard fartyg till att använda information system för att öka medvetenheten hos allmänheten samt som ett varningssystem åt understandard fartyg. Genom Paris MoUs hemsida kan en person få tillträde till information om resultatet från en inspektion av ett fartyg som har inspekterats i någon av medlemsstaterna i Paris MoU. Denna information har en inverkan på ett rederis kommersiella position då befraktare kan enkelt få tillgång till inspektionsregister för ett fartyg. Med den höga inverkan från en inspektion är det inte otänkbart att konflikter kan uppstå mellan de två parterna, myndigheten och fartygsägaren. Detta examensarbete utforskar de olika uppfattningarna av konflikter kring hamnstatskontroll inspektioner. Överklagningsprocedurer som finns tillgängliga för fartygsägare i medlemsstaterna och Paris MoU har blivit kartlagda för att undersöka medlen för fartygsägare att kunna uppmärksamma om ett misstag har gjorts vid en inspektion. Resultaten visar en stor skillnad mellan uppfattningarna. Myndigheterna som har deltagit i forskningen indikerar inga konflikter, medan det deltagande rederiet och sjöfarts föreningen gav den motsatta synen och gav indikation på att ett mörkertal finns. Sannolika orsaker till konflikter har identifierats som tolkning av regelverk och otillräckligt tränade besättningar och hamnstatskontroll inspektörer. Till följd av dessa resultat undersöktes utvecklingen av Paris MoU och STCW koden. Undersökningen visade att Paris MoU har utvecklats omfattande i senare tid medan STCW koden har inte sett några större utvecklingar inom kompetenser kopplade till fastställande av följning av lagliga krav. Rekommendationer till fartygsägare har blivit identifierade som inkluderar internutbildning och användning av kommande Paris MoU publikationer. De slutgiltiga resultaten av detta examensarbete pekar på att vidare forskning i området kan klargöra ämnet, då den tillgängliga tidigare forskningen har varit mycket begränsad.

Nyckelord: Fartygsägare, hamnstatskontroll, konflikter, Paris MoU, STCW-koden, överklagan

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Preface

Here follows the Master Thesis: *Port State Control: Perceptions on Conflicts*, which was written at Chalmers University of Technology during the spring of 2016. The topic for the thesis was provided by Paul Reimbert at Väderö Tank AB.

The subject of Port State Control has provided numerous challenges, as the available previous research have been limited for the area of interest covered in this thesis. With the support, guidance and invaluable insight in the subject from my supervisor Mats Isaksson was the challenges handled, for which I am grateful for.

I would like to thank the shipping organization BIMCO for all their contribution to this thesis, without their work in the industry and openness would the results of the thesis not been possible to achieve.

I am also thankful for the contribution from the Swedish Transport Agency for participating in the thesis and providing valuable data in the subject from the perspective of the authorities. The contribution from the national authorities in; Canada, France, Germany, Norway and the United Kingdom of Great Britain and Northern Ireland should also be recognized.

Finally, I am especially grateful for the continuous support and encouragement from my parents, in my pursuits in the academic world.

In the end has the processes been rewarding, and I hope it contributes in the field of research on Port State Control, and inspires researchers and fellow students to continue researching this area of the shipping industry.

Göteborg, May 2016

Andreas Falk

List of abbreviations

<i>ILO</i>	International Labour Organization
<i>IMO</i>	International Maritime Organization
<i>ISM-Code</i>	International Safety Management Code
<i>MARPOL</i>	International Convention for the Prevention of Pollution from Ships, 1973, as amended
MoU	Memorandum of Understanding
<i>Paris MoU</i>	The organization of Paris MoU
<i>PSCO</i>	Port State Control Officer
<i>SOLAS</i> amended	International Convention for the Safety of Life at Sea, 1974 as amended
<i>STCW 95</i>	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended in 1995 and 1997, including the amendments for the STCW-Code from 1997, 1998 and 2000
<i>STCW 2010</i>	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, including the 2010 amendments

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1 Introduction

Operating merchant vessels in international trade requires the vessel itself, the crew and the responsible company to comply with an extensive number of international regulations, where standards and rules are laid down. These regulations are most commonly originating from; conventions from the International Maritime Organization, IMO, the International Labour Organization, ILO and other international legislations. The primary evidence for displaying compliance with the regulations is to carry on board certificates and documents which are issued in compliance with the conventions (Cariou, et al., 2007). The responsibility for ensuring that vessels are in compliance with the rules and standards lies with the flag state, in which the vessels are registered (Bang, 2013). Following major maritime disasters in European waters involving substandard tanker vessels as, *Amoco Cadiz*, *Erika* and *Prestige* was it recognized that the enforcement of international rules and standards needed to improve within Europe (Höfer, 2003). Port State Control would become the response to combat and remove substandard vessels in European waters. This would come to act as a safety net, by performing inspections of foreign vessels and impose administrative measures against substandard vessels (International Maritime Organization, 2016a).

In the after match of the *Amoco Cadiz* disaster and following oil spill was the Paris Memorandum of Understanding, MoU signed and formed a regional cooperation between fourteen states in Europe, and since then, 1982 has it expanded to twenty-seven member states (Paris MoU, 2016a). The most commonly known tool Port State Control authorities utilize in their efforts is the detention of a foreign vessel, which is an administrative measurement (Bang, 2013). Consequences for ship owners finding their vessels being not in compliance with rules and standards are severe if a vessel is detained. By getting detained will the vessel be taken out of operation and therefore being unable to conduct trade and thereby not generating income. The consequences are not only limited to facing a detention in the present time. With the present time's information system applied by the Paris MoU are the ship owners not in safe water after passing an inspection without being found to be not in compliance with applicable rules and standard, to the extent that the vessel is detained. In situations where deficiencies have been found, which does not make the vessel a hazard is the owner of the vessel still exposed to consequences. Due to the result of the inspection is made public by the Paris MoU secretariat. Any remarks on the vessel in the inspection can lead to difficulties for the vessel to find employment in the future (BIMCO, 2016). Facing this reality that every inspection can directly affect the commercial position and future of a shipping company is it very likely to anticipate conflicts and disagreements between the two parties, the Port State Control authority and the ship owner. Industry publications has brought to light over the years a worrisome shipping community where inconsistency in inspections creates uncertainties and complications for ship owners (Grey, 2007). Leaving the ship owners exposed to risks with severe consequences, even if a small mistake has been made from one of the two parties.

1.1 Objectives

This thesis aims to investigate the perceptions on conflicts which can emerge between ship owners or operators, and Port State Control authorities. By investigating this subject, the thesis is also aimed to contribute to the research in the field of Port State Control. In order to obtain a holistic view are both parties, ship owners' and authorities' views covered and analysed. With regard to the nature of the exercise of Port State Control through cooperation between states have multiple authorities' perceptions been analysed. This approach has also been applied to the perception of ship owners, as the diversity of the world's merchant fleet consist of different type of vessels. Therefore, have ship owner associations been one of the primary sources for primary data. The outcome of the thesis is aimed to provide a clarification of common causes for conflicts and disagreements, and a mapping of available appeal procedures for ship owners or operators.

The key questions covered in the thesis is:

- What authority does Port State Control Officers have?
- How are appeals on inspections results from ship owners carried out?
- How is the quality and uniformity of inspections assured within the Paris MoU?
- How is the expertise assured for performing a just and correct inspection of a vessel?
- What regulations regulates the exercise of Port State Control inspections?
- How are ship owners protected from inaccurate inspection remarks and following consequences?

1.2 Limitations

The shipping industry is one of the truly global industries and is therefore vast. The exercise of Port State Control is performed in regional cooperation, with the Paris MoU as the oldest, and often regarded as a model for multiple other regimes. This thesis is therefore limited to the areas and jurisdictions under the Paris Memorandum of Understanding. The thesis is also limited to the exercise of administrative measures imposed by port states through Port State Control. The administrative measurement of refusal of access to ports or anchorage and dismissal will not be covered in this thesis.

The relevance of focusing on Paris MoU lies with the high recognition Paris MoU has globally with other Port State Control regimes (Transportstyrelsen, 2016a). Conflicts between the parties are limited to the outcomes of inspections and the remarks in the inspection report. The standards in the STCW code which will be covered in this thesis are limited to those for officers in charge of navigation and for chief officer and master on board vessel with a gross tonnage of five hundred or higher.

1.3 Structure

The structure of this thesis is based on six chapters. Chapter two consists of a literature review of the for this thesis, based on available previous research in Port State Control. Chapter three covers the research methodology for the empirical research carried out for this thesis. In chapter four is the findings of the empirical research presented. The empirical research has been the primary source for data

regarding perceptions and widespread of conflicts between authorities and ship owners, as no previous research in the subject have been identified through available sources for the literature review. Chapter five is based on a secondary literature review and the findings of the empirical research and attempts to answer the specified key questions. The conclusion of the thesis and outlooks for further research are presented in chapter six.

2 Theoretical background

In this chapter of the thesis are the findings of the literature review covered and relevant background information about the practice of Port State Control provided. The previous research which has been identified in the subject of Port State Control has been limited and mainly focused on the effectiveness of Port State Control. Theoretical background in the topic of conflicts has therefore been difficult to identify and will be covered in the empirical research chapter of the thesis.

2.1 Port State Control

The exercise of Port State Control is the implementation of the administrative power of a state to ensure that foreign vessels in its ports or offshore terminals are in compliance with international rules and standards. This also includes the national laws of the port state. The primary purpose of exercising Port State Control is to verify that foreign vessels are not presenting hazards to the marine environment or compromising the safety of the vessel itself. The administrative power is applied as it entitles the port state to take direct action against vessels which are not in compliance with applicable international rules and standards. The actions which can be taken are:

1. Detention of the vessel.
2. Giving the vessel clearance to proceed to an agreed upon shipyard for repairs.
3. Requiring the vessel to rectify the deficiencies in the next port.
4. Requiring the vessel to rectify the deficiencies on the voyage before the next port of call, with subject to follow up in the next port.
5. Requiring the vessel to rectify the deficiencies within 14 days.
6. Ordering the vessel to rectify the deficiencies before giving the vessel clearance to departure from the port.

(Bang, 2008)

Exercise of Port State control is performed through an inspection of a foreign vessel. The inspection is carried out by an inspector, Port State Control Officer, PSCO who is recognized by the port state's national authorities (Paris MoU, 2016b). Vessels which are not in compliance with international rules and standards are subject of being denoted as substandard vessels, depending on the severity of the non-compliance. The action taken against a vessel where deficiencies have been found is depended on the nature of the deficiency (Knapp & Velden, 2009). Deficiencies of the vessel that poses hazards to the environment, health and safety are detainable deficiencies and will result in the action of detaining the vessel in the port (Bang, 2008).

Port State Control is performed in regional cooperation through Memorandum of Understandings, MoU agreements, the agreement used in Europe is the Paris Memorandum of Understanding. The cooperation in Europe also include the organization Paris MoU. The effort of coordinating the Port State Controls is done to create a uniformity of the inspections throughout the region and make it effective and efficient. By striving to harmonize the enforcement of international rules and standards can unfair competition among ports be avoided, due to various strictness in the enforcement in the member states. Information exchange is performed within the

region to avoid unnecessary inspections of vessels to reduce costs for both parties, the port state and the ship owner. (Bang, 2008)

The interval for the inspections of foreign vessels are stipulated in the region's MoU. Paris MoU assigns risk categories for vessels, through the inspection system called the New Inspection Regime, which are based on multiple parameters; the type of the vessel, flag state, age of the vessel and previous inspection results, among other factors. The risk categories are; high risk ship, standard risk ship and low risk ship. The assigned risk category gives the vessel an inspection interval in the region and the priority for inspection by authorities. High risk ships are periodically inspected six months after the last inspection in the region, standard risk ships every year and low risk ship every two to three year. Based on the vessel's risk category is the type of inspection of the vessel performed under Paris MoU determined. There are three types of inspections carried out; initial inspection, more detailed inspection and expanded inspection. (Paris MoU, 2016b)

Initial inspection is carried out on low risk ships and standard risk ships. The procedure for the initial inspection is that the PSCO observes the overall condition of the vessel's hull before boarding it. Thereafter is the vessel's required certificates and documents to be held by the vessel examined and verified to be valid. Followed by a visual inspection of the overall condition of the; navigation bridge, engine room, cargo hold, deck and superstructure and the accommodation areas and galley. Unless the PSCO has made observations and found evidence of clear ground, based on professional judgement, for suspecting that the vessel is not in compliance with applicable international rules and standards, the inspection is concluded. The master of the vessel is provided with a report of the inspection containing details if any action needs to be taken. (Paris MoU, 2016b)

The Paris Memorandum of Understanding contains multiple examples for clear ground on suspecting a vessel of not being in compliance with international rules and standards, thereby possibly being a substandard vessel. A clear evidence for clear ground is missing or invalid certificates. (Paris MoU, 2016b)

Clear ground is also established if there is evidence that the vessel, its crew or equipment does not fulfil the requirements of the certificates carried on board, even if the certificates are valid. (International Maritime Organization, 2011a)

In cases where the PSCO has established clear ground during the Initial inspection, will the inspection be extended to a More detailed inspection. This type of inspection involves comprehensive examination of areas, where found deficiencies have lead to the establishment of clear ground and in other risk areas on board. (Paris MoU, 2016b)

High risk ships and vessels with an age over twelve years and is a vessel type classified by Paris MoU as a risk type, which include; oil tanker, chemical tanker, gas carrier, passenger vessel and bulk carrier, are subject to the Expanded inspection. The expanded inspection involves examination of the human element in risk areas on board as well as inspection of the overall condition of the vessel. Paris MoU establishes certain risk items and equipment for each vessel type and corresponding procedure for determine functionality. These procedures are always included in an expanded inspection. The extent of the examinations is based on the professional

judgement of the PSCO. Control of the operational procedures on board is also included in the extended inspection, based on requirements in the ISM-code, ILO conventions and the STCW convention. (Paris MoU, 2016b)

2.2 The need for Port State Control

In this section is the two major factors for the establishment of Port State Control regimes explained. The overall reason is to counteract the usage of substandard vessels in the shipping industry (Bang, 2008) as it can lead to accidents at sea which causes harm to the environment, human lives and properties. Port State Control is used as a safety net for situations where the flag state is unable or unwilling to enforce international rules and standards upon the vessels in its register (Miller, et al., 2015). The two major factors covered are prevention of pollution and the usage of flag of convenience, which is argued by Miller et al. (2015 p. 124); “may be linked with the likelihood of vessels becoming involved in large-scale oil spill accidents”.

2.2.1 Prevention of pollution

Implementation of Port State Control on regional level started in Europe when the Paris Memorandum of Understanding entered into force in 1982. On the other hand, initiatives for regional co-operation for inspection and assurance of compliance with applicable ILO conventions had started already in the 1970's. The agreement was delayed and expanded in the after match of the oil spill from the tanker vessel *Amoco Cadiz* to include enforcement of prevention of marine pollution from vessels and safety at sea, on top of applicable ILO conventions. (Paris MoU, 2016a)

The oil spill from the oil tanker *Amoco Cadiz* accident released over 200 000 tonnes of oil in 1978 (Poggiale & Dauvin, 2001). Since then has more oil spills occurred in European waters which has influenced the practice of Port State Control, the two most known disasters are the Erika disaster in 1999 (Cariou, et al., 2007) and the Prestige disaster in 2002 (Höfer, 2003).

The tanker Erika broke apart and released close to 20 000 tons of its cargo, consisting of heavy fuel oil, close to the French coast. The spill consequently polluted the coast line and affected the environment and economy. (Cho, 2009)

During investigations of the Erika accident, it was revealed that the vessel was overloaded and sailing illegally, as the required permits for the vessel had already expired when the vessel departed (Spurrier, 2001). It was later determined the vessel to be substandard in relation to established international rules and standards (Lloyd's list, 2008).

Three years later, the tanker Prestige suffered damages to the hull and sprung leak of its heavy fuel oil cargo, eventually to break a part and sink (Höfer, 2003). In the following investigation of the accident, was it claimed by Spanish authorities that the vessel was substandard and that better inspections of the vessel could had prevented the accident (Reyes & O'Mahony, 2005).

Following these two accidents, the governments of Europe experienced large pressure to tackle the issue of substandard vessels operating in European waters. By

implementing stricter Port State Controls to assure the enforcement of international rules and standards. (Höfer, 2003)

The first response from the European Union after the Erika accident and oil spill was the Erika package I for maritime safety, which was released on 21th of March 2000. The package which was proposed by the European commission contained number of immediate actions to increase the safety and prevention of pollution, among these, a need for an amendment to the by then current directive regulating Port State Control. Stricter action as banning was proposed against vessels over the age of fifteen years which had been detained multiple times in the European Union. (Eur-Lex, 2007a)

Following the first response was the Erika package II, which intended to solidify the protection of European waters. The proposal was released in December 2000. It contained proposals for safety measures through monitoring of heavy traffic areas, compensation funding for oil spill victims and most notable, the formation of the European Maritime Safety Agency. (Eur-Lex, 2007b)

After the implementation of the first and second packages to improve the maritime safety in the European Union, was the third packages for maritime safety implemented to supplement and further improve the regulations (European Commission, 2005). In between the second and the third package, the Prestige accident occurred, creating incentives to further address issues with substandard vessels. The most notable result from the third packages is the updated EU directive regulating Port State Control within the European Union, directive 2009/16/EC (The Federation of European Private Port Operators, 2016).

2.2.2 Flag of convenience

With the high level of competition in the shipping industry are ship owners constantly forced to control costs to remain competitive. This has lead to a number of ship owners have registered their vessels under foreign flag states with open registers for lower cost for connected fees and lower standards and loopholes in regulations for manning and taxation. These flags are known as flag of convenience (Miller, et al., 2015).

Registering a vessel under a flag state which do not enforce international rules and standards increases the risk for said vessel to causing or being involved in a maritime accident, especially for oil tankers (Miller, et al., 2015). Due to the international standards and rules for safety and prevention of pollution might not be correctly enforced. Even with efforts to properly enforce international standards and rules is it highly likely that it is difficult for a flag state with an open register to ensure full compliance of the vessel flying its flag, as an open register can contain over thousand vessels, with limited connection to the territorial waters and areas of the flag state (Miller, et al., 2015). Both aspects of flag state being unable to enforce standards and rules and also possible unwillingness to enforce. Creates the need for port states to enforce the international standards and rule, through administrative measures such as Port State Control.

2.3 Effectiveness of Port State Control

Multiple research articles have been published on the subject of Port State Control, the primary focus has been on the subject of the effectiveness of Port State Control. Cariou, et al. (2007) analysis reports of over 4000 Port State Control inspections conducted by the Swedish Maritime Authority to determine major target factors for inspecting foreign vessels. Targeting factors already established by Port State Control MoU regimes proved through statistical analysis to be main factor linked to the number of deficiencies, these factors are; age and type of vessel and the flag of registry (Cariou, et al., 2007).

In the study performed by Knapp & Franses (2006) was it concluded, through analysis of over 180 000 Port State Control inspection and over 10 000 casualties at sea that the inspections by Port State Control affected the probability for the inspected vessel to be involved in a casualty. This mean that the inspection under Port State Control regimes lowers the probability of a vessel suffering a casualty at sea, with various effect depending on the seriousness of the casualty.

Bang (2008) analysis the effectiveness of Port State Control to combat marine pollution and concludes that Port State Control is a major factor in reducing and combating operational pollution from vessels, despite the lack of possibilities to determine a long-term trend. The author, Ho-Sam Bang explored further the impact of Port State Control in Bang (2013) where the impact Port State Control has on substandard vessels was examined. The conclusion drawn in the study determined: “One cannot conclude that Port States have made *no* impact on sub-standard vessels” (Bang, 2013 p. 125).

2.4 Harmonization of Port State Inspections

Port State Control is performed globally and is divided into regional regimes under multiple Memorandum of Understandings. The implication is that harmonization of procedures will be difficult on a global scale. Knapp & Velden (2009) provides a study on the differences between the different regimes. The authors recognize the presence of differences in procedures due to the variety of the regions, but also emphasizes the importance of harmonizing the determination of substandard vessels, in relation to international rules and standards. The study showed that regimes had different connections with certain aspects in the inspections, Paris MoU was closely connected with areas as structural safety and navigation in the study. The authors conclude that there is a lack of uniformity between the regimes and harmonization can be performed between the regimes and on IMO level (Knapp & Velden, 2009).

Paris MoU recognizes the need for harmonization of the exercise of Port State Control among the member states and has it as a primary objective of the ruling committee. The harmonization together with standardisation is aimed to be achieved through continuous training and education of PSCOs through a harmonization scheme (Paris MoU, 2016b). Within the Paris MoU are PSCOs offered specialized training, seminars and expert training on multiple occasions per year (Paris MoU, 2013). Evidence of the strive for harmonization and standardization can be seen in various publications from Paris MoU where references to PSSC instructions are made (Paris MoU, 2016c).

2.5 Legislation connected to Port State Control

In this section are the most relevant international legislations in form of conventions for this study covered. Specifically, the ISM-code which is tied to the SOLAS convention and the STCW convention. More detailed information on the applicable conventions with connection to the legal basis for Port State Control are covered in appendix I.

Multiple legislation on different level provide the legal basis for Port State Control, among these are IMO and ILO conventions which provides port state the right of performing controls of foreign vessels regarding compliance with the convention (Bang, 2013). In European water is it the Paris Memorandum of Understanding and the EU directive 2009/16/EC which are the primary agreement and the legal basis governing the exercise of Port State Control. Paris Memorandum of Understanding provides the cooperation and harmonization while the EU directive is the legal enforcement in the European Union (Transportstyrelsen, 2016b).

2.5.1 ISM-code

Adopted in 1993 through IMO resolution A.741, the International Management Code for Safe Operation of Ships and for Pollution Prevention Code (ISM-Code), established requirements on companies which has the responsibility of operating vessels to implement a safety management system. This system shall fulfil safety-management objectives in compliance with the ISM-Code. Including a company policy to ensure necessary support from shore-based operations and resources to fulfil the requirements. Compliance through procedures is required to be documented in a Safety Management Manual. The latest update to the code entered into force at the start of 2015. (International Maritime Organization, 2016b)

2.5.2 STCW 1978, as amended

The STCW convention and code stipulates the minimum standards for personnel working on board vessels, in order to be certified in compliance with the convention and receive recognition to be competent in the position on board.

The convention aims to advocate protection of the marine environment and safety of property and life at sea, the convention entered into force in 1984. Updating procedures of the convention is similar to other conventions as SOLAS and MARPOL through tacit acceptance. One-third of contracting parties representing 50 percent of the world tonnage needs to object to a proposed amendment, otherwise will it be adopted. The latest amendment entered into force 2012. The convention sets minimum requirements for standards for seafarers in terms of training, certification and watchkeeping. Included in the convention is the STCW code. The code acts as support tool for implementation of the convention as it contains detailed explanations for the set standards and guidelines for implementation. Assurance for compliance by training institutes with the convention rest with contracting states' governments. (International Maritime Organization, 2016c)

3 Research methods

In this thesis have two methods for gathering primary data been utilized; interview and questionnaire. The methods have been supported by literature reviews to build up relevant content and questions in the preparatory stages of the empirical research. The data gathered with the two primary methods have been used to create synergy in the research by performing intermediate analysis. The first stage of the study involved an extensive literature review, despite a low availability of secondary data in this field regarding research on Port State Control. Thereafter were questionnaires and interview questions developed and updated along with initial analysis of primary data. Following the analysis of all gathered primary data was a secondary literature review conducted based on the findings of empirical research.

3.1 Interview

The method of interviewing has been utilized in this thesis for multiple applications. As in-depth information about experiences from the interviewee can be gathered through interviews (DiCicco-Bloom & Crabtree, 2006) and it can be utilized as a pilot study before designing a questionnaire (Qu & Dumay, 2011).

In order to have flexibility in the interview was a semi-structured interview selected, as it allows the interviewee to provide data in form of a narrative (DiCicco-Bloom & Crabtree, 2006) and provide the interviewer with flexibility in terms of topics of interest (Wilson, 2012). This allows further exploration of topics and concepts as the interviews goes on. This is achieved as the interview is structured around open-ended questions and encourages a dialogue between the two parties taking part in the interview (DiCicco-Bloom & Crabtree, 2006).

The invited interviewee for the interview was selected based on the expertise and high position within the Swedish Transport Agency. In order to get a holistic perspective from the agency. The interview took place at the regional office of the Swedish Transport Agency in Malmö, Sweden. The questions for the interview was designed and developed after conducting a literature review and initial contacts with parties connected to the, for this thesis, counterpart of the interviewed authority. Combined with initial analysis of primary data gathered through a questionnaire. With the basis from the literature review and the initial analysis could the interview questions be developed to address; aspects which were not available through secondary data and common ground for conflicts between the two interest groups. Thereafter was the gathered data utilized, apart for the thesis itself, to develop a questionnaire which was sent to the remaining authorities within the Paris MoU region.

3.2 Questionnaire

Applying questionnaires as a research method provides means for reaching a high number of participants for a study and gather generalizable data (Rowley, 2014). Developing relevant and value adding questions for a questionnaire requires knowledge in the subject which is researched (Rowley, 2014), therefore was a literature review performed before the development of the initial questionnaires for this thesis. The first round of questionnaires was utilized to develop questions for the

performed interview, as the questionnaire method is useful to examining a generalized situation (Rowley, 2014).

Questionnaires were also utilized to gather data from a high number of authorities spread over two continents, as the questionnaire method can be used to time efficiently generate data (Rowley, 2014). The latter questionnaire was designed based on the findings from the interview with the Swedish Transport Agency, and was aimed to examine the perception of the remaining authorities within the Paris MoU region. In order to attempt to generalize the perception of the the Paris MoU regime. The questionnaire contained both open and closed questions in order to limit the time requirement for replying and thereby increase the willingness to respond.

Multiple questionnaires were used as each invited party received questions relevant to its position and principle. The authorities were sent the same questionnaire to maintain a consistence in the gathered data. The shipping associations were sent a separate questionnaire to reflect their; expertise, perception and point of contact regarding conflicts. Finally, was the questionnaire to the ship owner designed to gather data based on their perception on conflicts.

The questionnaire sent to the shipping associations was designed with general questions regarding Port State Control and conflicts reported from the organizations' members, the questions were not specifically tied to the Paris MoU. This approach was selected to get a holistic view and to provide possibilities to find common grounds on the perceptions of conflicts. The shipping associations were invited to participate in the empirical research as they represent multiple ship owners and therefore could provide multiple views and also provide anonymity for their members.

3.3 Method discussion

In this section will the advantages and drawbacks of the applied methods be discussed. The sources used in the literature reviews should also be mentioned and discussed. The first stage of literature reviews utilized academic publications which are deemed reliable. In the chapter of Final results have among other sources, annual reports been utilized to examine the development of the Paris MoU. This source is subject of being bias as it is the organization's own publications. The reports have been deemed to be reliable for the thesis as annual reports have creditability and the majority of the facts included have been reoccurring in Paris MoU publications.

3.3.1 Interview

Gathering data from experts and key personnel through the interview method is a widely, and in many aspects an efficient approach, as mentioned earlier. The method is also subject to various drawbacks, also in the application for this thesis. One of the well recognized drawback is that the results from an interview is based on the interaction between the interviewer and the interviewee, which is put in certain contexts during the interview (Harris & Brown, 2010).

The interview in this thesis was conducted with a high ranking person within the Swedish Transport Agency and thereby is a limitation emerging, as the context of the interview, most likely became set high up in the organization. This limitation is worth

discussing as it can be an advantage and a disadvantage for the thesis. The advantage is that the results of the interview gives a broad and holistic view point on the perception of the Swedish Transport Agency, regarding their views on conflicts and disagreements. The disadvantage is that the interview is at risk of not capturing data and views on other levels of the organization, where for example minor disagreements can likely occur with the other principle of this thesis. For this thesis was it deemed that the advantage outweighed the disadvantage, as a holistic perceptive was achieved.

Furthermore, interviews and the resulting data is always at the risk of being bias, in this thesis is it particular at risk as the subject involves conflicts and disagreements. Conflicts will most likely involve at least two different views that are at a disagreement. This risk required careful designs of questions and basing questions on concepts of plausible reasons behind disputes or conflicts. The implication with the method of interviews also include the reality that the resulting data is an understanding of the view points of the interviewee which are on some levels bias and partial (Harris & Brown, 2010).

3.3.2 Questionnaire

Applying questionnaires in research studies has the advantage of being able to reach a large number of people time efficiently, but it has its drawbacks as well. One of the primary drawbacks is the uncertainty if the respondent has fully understood the questions (Rowley, 2014), also questionnaires does not give the opportunity to give follow-up questions if a detail in the initial answer provide topics of interest.

Further drawbacks with the questionnaire method are that the data gathered can be biased, and with the uncertainty in the respondent's understanding of the questions, thereby being at risk of being unreliable (Harris & Brown, 2010). Nevertheless, despite the drawbacks of the method has it been utilized as the advantage of reaching a larger number of participants and overcoming location and time constraints overweighed the drawbacks. In order to ensure reliable answers and data have simple open and closed questions been the basis for the questionnaires.

For this thesis was a total of twenty-nine questionnaires sent out, three questionnaires to shipping associations or ship owner and twenty-six to authorities. One shipping association, one ship owner and five authorities responded to the questionnaires. This provides a very low rate of responses, the lowest rate with authorities. The cause of the low number of responses from authorities lies likely with the point and mean of contact. The selected point of contact with the authorities were selected based on information provided through the Paris MoU website, where contact details are published. Email was selected as the mean of contact in order to enclose the questionnaire with the invitation to participate in the research, as it would facilitate a time efficient procedure to reply and for forwarding the email as the only contact details available were consolidated email addresses for the authority or department. The low rate of response was expected, therefore were all the authorities contacted in order to increase the probability of receiving sufficient numbers of responses. Despite the low number of responses from authorities were enough data gathered to generalize characteristics and find useful viewpoints.

Compared to the contact point with the authorities were the contact persons with the ship owner and the shipping association already established, therefore was a higher response rate achieved.

4 Empirical results

In this chapter are the results from; the interview with the Swedish Transport Agency, the questionnaires sent to; the shipping association BIMCO, the shipping company Väderö Tank AB and the responsible authorities in; Canada, France, Germany, Norway and the United Kingdom of Great Britain and Northern Ireland presented. The findings cover the following topics; perceptions on conflicts, Port State Control's impact on ship owners, Current harmonization Efforts in Paris MoU and Quality assurance in Port State Control procedures.

4.1 The different views on conflicts between ship owners and Port State Control authorities

As it can be expected, the different parties in this research have different views on the widespread of conflict and causes for conflict involving Port State Control. In this section are the findings of the empirical research on these two topics presented and analysed.

4.1.1 Widespread of Conflicts

In an attempt to chart the prevalence of conflicts surrounding Port States Control, between the two parties where questionnaires sent out. The recipients were all responsible national authorities within the Paris MoU region (apart from Sweden as the national authority was interviewed instead), two shipping associations and a shipping company.

4.1.1.1 Authorities

The primary data gathered from responsible authorities in the member states of the Paris MoU cooperation concerning conflicts is limited, due to a low number of replies. Nevertheless, the five national authorities which have answered the questionnaire fully and combined with an interview with the Swedish Transport Agency provides some, but still limited insight on their views on the widespread of conflicts.

All participating authorities answered that in current time that they do not experience any major conflicts or non at all. The Swedish Transport Agency experience some very minor and unusual conflicts while performing Port State Control inspection, which they perceive as a more generic resilience and displeasure from the crews with any form of inspection (Transportstyrelsen, 2016a). The perception of the German authority is fairly similar of the Swedish Transport Agency; no serious conflicts has been observed by the authority, apart from the inherent differences in the aims and goals of the inspection for the two parties (Port State Control Germany, 2016). One authority which has given notice of conflicts is the French national authority for Port State Control, but these notices are also with limitations. At present time are no conflicts observed in France and since the introduction of the New Inspection Regime (Direction des affaires maritimes, 2016). The Norwegian Maritime Authority and the Canadian authority have no records of conflicts between the authority and ship owners (Norwegian Maritime Authority, 2016; Transport Canada, 2016).

The number of appeals each authority receives per year appears to reflect the perception of the almost non existence of conflicts. The national authority in France answered that they receive no official appeals per year since the introduction of the New Inspection Regime (Direction des affaires maritimes, 2016). The Swedish Transport Agency and the Norwegian Maritime Authority receives normally no appeals per year (Transportstyrelsen, 2016a; Norwegian Maritime Authority, 2016). The Canadian authority receives on average two to three appeals per year (Transport Canada, 2016). The German authority receives fifteen appeals per year on average which is equal to one percentage of all performed inspections (Port State Control Germany, 2016).

4.1.1.2 Shipping associations

Questionnaires were sent to two international shipping associations to gather data on the perception of the ship owner side on conflicts, one of the organizations replied, BIMCO.

BIMCO is an international shipping association with members worldwide. The member base contains among other actors, ship owners and the organization is frequently approached by its member with concerns regarding Port State Control matters (BIMCO, 2016). It should be noted that the questions in questionnaire was not specifically directed to the Paris MoU region, as this approach aimed to give possibilities for common ground of views from the two participating parties. BIMCO addresses conflicts and concerns from their member on average once or twice per month over one year (BIMCO, 2016), meaning that there is evidence of conflicts on a global scale. The more interesting part is the unreported numbers. The willingness of members in the organization to share information concerning Port State Control matters is fairly low (BIMCO, 2016). Therefore, is there a possibility that the real numbers and widespread of conflicts between ship owners and authorities are higher than what the data in this research have shown.

4.1.2 Causes of conflicts

In this sections are the findings of the two interest parties' perceptions and reflections regarding what can and are causing conflicts surrounding Port State Control.

4.1.2.1 Authorities

Despite the low evidence and recordings of conflicts from the participating authorities, various causes and possible causes for conflicts has been identified. The Swedish Transport Agency indicated conflicts regarding deficiencies in the reports in the early days of the New Inspection Regime. Due to the applied scoring system utilized for determining the risk category of a vessel. These early stage conflicts derived from the importance of the numbers of deficiencies in each report and the nature of the deficiency. Five deficiencies or one ISM deficiency leads to increased scoring in the system, which has a direct impact on the risk category assigned to the specific vessel. (Transportstyrelsen, 2016a)

The Norwegian Maritime Authority did not report any conflicts and therefore no recorded causes for conflicts. Nevertheless, the authority gave one clear likely cause for possible conflicts, which is interpretation of regulations (Norwegian Maritime

Authority, 2016). This reflection from an authority is especially worth noting as this possible cause will be touched upon by the other party in this research.

Causes for conflicts recorded by the French authority which predates the implementation of the New Inspection regime is viewed by the authority to be due to poor quality in vessels and “*some RO spending more money with lawyers than with competent surveyors*” (Direction des affaires maritimes, 2016).

4.1.2.2 Shipping associations and ship owner

Due to the low numbers of reported conflicts and a probable high number of unreported conflicts are the identified causes fairly limited, based on the data gathered in this research. Despite the low reported number has multiple causes for conflicts been identified based on the perception of BIMCO (BIMCO, 2016).

The most notable identified causes are inexperienced inspectors and crews. Regarding inexperienced crews, it should be noted that the organization put emphasis on the inexperience in handling and managing inspections. These causes, particularly inexperienced crews are further interesting as another reflexion by the organization is that both international and national regulations are not easy to read and understand. (BIMCO, 2016)

The perception of a ship owner is that a cause for conflict is the high difference in power between the parties. Where the Port State Control has as described; absolute power over the ship owner while performing inspections (Reimbert, 2016).

4.2 Port State Control inspection’s impact on Ship owners

High availability of the results from the inspections for the general public and particularly interest parties as charterers creates impacts on the ship owner when a vessel has been inspected. In this research has the focus on the impact on ship owner been directed to the commercial position from both participants from the ship owner side (BIMCO, 2016; Reimbert, 2016).

BIMCO emphasises that any remarks in a Port State Control inspection report has a real potential influence on a vessel’s possibilities for securing a charterer to conduct commercial trade (BIMCO, 2016). The influence on a vessel’s commercial position was further expanded in the perception of a shipping company which participated in this research. Impacts from the inspections report is not just limited to the specific vessel under inspection, the impacts affect also the entire company’s commercial position (Reimbert, 2016). These factors raise concerns for the ship owner part regarding harmonization and ensuring uniform and correct inspections. It has also been noted in the research that perception on the level of uniformity between the member states of Paris MoU varies. The Scandinavian countries appears to emphasise practical applications and general appearance compared to continental European states (Reimbert, 2016).

4.3 Current Harmonization efforts in the Paris MoU

Harmonization of the practice of Port State Control within the region under Paris MoU is and has been from the beginning a cornerstone in the cooperation. The effort to achieve harmonization is an ongoing process and current efforts aims to increase transparency, one of the ongoing processes is release of more data to interested parties (Transportstyrelsen, 2016a).

One of the major steps taken in recent years is a requirement to always utilize the available Rule Check System when performing inspections. In order to ensure that the risk of wrongfully applying international standards and rules is limited and controlled (Transportstyrelsen, 2016a). The utilization on the Rule Check system has been confirmed by all national authorities which have participated in the research. Further harmonization efforts which have been ongoing in multiple years and continuously updated, are the PSCC instructions. These instructions issued by the Paris MoU for the PSCOs and must be trained with and followed by all PSCOs (Transportstyrelsen, 2016a). These instructions are continuously updated by task forces working under the Paris MoU secretariat to remain up to date.

The instructions cover almost all areas which falls under inspections with details of how the equipment or area shall be inspected. Together with examples of clear ground for initiating a more detailed inspection, and clear grounds for detention are specified. Aspects which can not be regulated as cleanliness for example, does not have connected criteria in the instructions and therefore requires the professional judgement of the PSCO to make an assessment. The instructions also contain references to the applicable regulation for the area or equipment under inspection, which further limits the risk of unjustified remarks on an inspected vessel. (Transportstyrelsen, 2016a)

Apart from the requirement of utilizing the available Rule Check system is there a requirement from the Paris MoU to include references on all noted deficiencies found during the inspection, which are included in the inspection report (Transportstyrelsen, 2016a). This has also been confirmed by the national authorities which have participated in the research, with limitation for the Canadian authority, as the authority indicated it is in the transition state to implement the references to all deficiencies (Transport Canada, 2016). Worth noting is that the Norwegian Maritime Authority has included the references for several years before the requirement entered into force (Norwegian Maritime Authority, 2016). The requirement entered into force in 2015 (Transportstyrelsen, 2016a) and can be found in the latest amended version of the Paris MoU which entered into force first of July in 2015.

The next step for the efforts of improving the transparency from the Paris MoU will be the publishing of publically adapted versions, of the majority of the PSCC instructions in mid 2016 (Transportstyrelsen, 2016c). The expected results from this upcoming publication varies highly among the participating authorities. The Swedish Transport Agency expect an improvement in inspection results, due to improved results in flag state inspection after the agency published their handbook and guidelines for the flag state inspectors, as ship owner could perform their own controls of compliance before the flag state inspection (Transportstyrelsen, 2016a). The Norwegian Maritime Authority indicates uncertainty if the inspection results will

improve as the requirements which are stipulated in the instructions are available from other sources (Norwegian Maritime Authority, 2016), i.e. the international conventions. The French and German authorities are not expecting any improvement in the inspection results (Direction des affaires maritimes, 2016; Port State Control Germany, 2016).

4.4 Quality assurance in Port State Control procedures

Standardization and harmonization of the Port State Control procedures are provided by the Paris MoU training schemes (Paris MoU, 2014), apart from standardization from training and inspection instructions are efforts made from the member states to assure uniformity and harmonization. The authorities which participated in this study are performing various quality assurance procedures at various degrees. The Swedish and French authorities are both certified in accordance with the ISO 9001:2008 standard for quality management systems (Transportstyrelsen, 2016a; Direction des affaires maritimes, 2016). The practical application of controlling the quality of the inspection by the Swedish Transport Agency lies on the continuous training of PSCOs and validation control of all inspection reports before they are submitted at the regional office (Transportstyrelsen, 2016a).

Quality assurance through continuous training of the PSCOs is also applied by the German authority and through assessment discussions between the Port State Control Coordinator and the PSCOs. Support is highly emphasized within the German authority and in normal cases are the inspections carried out by two inspectors. (Port State Control Germany, 2016)

The Norwegian Maritime Authority perform validation procedures of all inspections reports. Before the inspection reports are submitted are they required to be validated by a superior within the authority (Norwegian Maritime Authority, 2016). The German Port State Control authority perform similar quality assurance procedures for their reports. All inspections reports have to go through a validation process performed by a special experienced Senior PSCO (Port State Control Germany, 2016). The Maritime and Coastguard Agency which is the responsible authority body for Port State Control in United Kingdom of Great Britain and Northern Ireland perform validation procedures on all inspections reports where the inspection resulted in detention of the inspected vessel (Maritime & Coastguard Authority, 2016). Thereafter are approximately 10% of the remaining inspections reports, which does not result in detention taken through the validation procedures through a randomized sample survey. The agency is currently developing quality control measures to replace the validation procedure (Maritime & Coastguard Authority, 2016).

4.5 Analysis of the empirical research

Based on the findings in the empirical research have training of crew and inspectors appeared to be a plausible cause for conflicts. This along with common reflection on interpretation of regulations; difficulties in reading and comprehending regulations from the ship owner side and the view of interpretation of regulation being a possible cause of conflict from the Norwegian Maritime Authority.

Some disagreement between ship owners and authorities appears to be present in at least two of the member states based on the appeals received. With regard to the answer from BIMCO regarding unwillingness to share information on Port State Control subjects from ship owners can the numbers of disagreements, in reality be higher than what is received by the authorities.

The efforts made from the Paris MoU through harmonization and strive to improve the transparency of the practice of Port State Control, indicates that improvements efforts are a continuous process for the cooperation. Despite some indications that full harmonization has not been achieved, must it be remembered that the Paris MoU contains more than twenty individual states and the memorandum is only an agreement and not legally binding. Combined with the reality that new regulations which are applicable on merchant vessels enters into force continuously.

The impacts on ship owners from the inspection reports remains as a concern. The appeal procedures available for ship owners will therefore be examined in the next section of the thesis.

Interpretation of regulations and training appears to be the most tangible cause of conflict based on the findings. In fact, in some aspects can the two causes be combined. The PSCOs need training in understanding regulations in order to perform their duty, and crews on board vessels needs to understand the applicable regulations in order to ensure that the vessel, the crew and operations on board are in compliance with said regulations. Based on this analysis of the gathered data will this thesis examine the development of the Paris MoU practices and organization, and also the developments in the STCW code. The STCW code provides minimum standards for seafarers and should therefore provide a view of the developments in training for crews in terms of understand international regulations and ensuring compliance.

5 Final results

Based on the result of the empirical research has two major parts been selected for further studies through literature reviews in the subject. The first part of the Final results focus on the development of Port State Control practices within the Paris MoU cooperation and a mapping of the development of relevant parts of the STCW code, since the STCW 95 to the STCW 2010. The second part focus on the appeal procedures within the Paris MoU secretariat and each member states.

5.1 Development of Port State Control within the Paris MoU cooperation

The Paris MoU cooperation has seen much development since the regional cooperation for Port State Control entered into force in 1982. Despite the complexity of the cooperation, as it is an agreement between twenty-seven member states to cooperate, especially as it is not a legally binding convention (Transportstyrelsen, 2016a). In the initial agreement was fourteen states participating in the regional cooperation.

The following section is based on information released with annual reports from Paris MoU and examines the development since 1996.

5.1.1 Development in Guidelines for member states

The Paris MoU has developed organizationally and in terms of procedures and processes since the start in 1982 and in recent years. In 1996 was an advisory board established to as the executive body of the Paris MoU secretariat (Paris MoU, 1996).

The inspection regime which was applicable before 2011 required a commitment from every member state to inspect 25% of all visiting foreign vessel throughout the cooperation (Paris MoU, 1997). The inspection regime has since been reformed to replace the old qualitative based regime with the current risk-based inspection regime. The current inspection regime, named the New Inspection Regime was implemented at the start of 2011 (Paris MoU, 2011). The development of the regime was initiated in 2004 (Paris MoU, 2004) and required several years of development as the entire inspection regime would change and needed a new information system to enable the regime. The coding system for Port State Control information utilized in the information system was developed in cooperation between the Paris MoU and the Tokyo MoU (Paris MoU, 2011). The European Maritime Safety Agency, EMSA participated closely with the development of the New Inspection regime. By initially being appointed to carry out several investigation of the impacts of the new regime (Paris MoU, 2005) and develop the connected information system, THETIS (Paris MoU, 2011). Inherent in the new regime, Paris MoU aimed to reward ship owners which held high quality and maintained compliance with international rules and standard, as low risk vessels have a lower frequency of inspections (Paris MoU, 2009).

The cooperation between the Paris MoU and EMSA is not limited to the current inspection regime. In 2001 was it recognized by the Paris MoU that a need for an

electronic system to control the applicable conventions for any particular vessel under inspection had emerged (Paris MoU, 2001a). EMSA became the leading organization in the development of a Rule Check system for identifying applicable conventions and assisting PSCOs during inspections. The system was delivered in 2007 and was utilized by all PSCOs within the Paris MoU in 2008 (Paris MoU, 2007). With the Rule Check system can PSCOs get directly a holistic view over which conventions and section are applicable on the vessel during an inspection. By entering general information of the vessel in the software, and thereby avoiding misinterpretations of conventions and applying wrong rules and standards (Transportstyrelsen, 2016a). Thereby can unjustified and inaccurate deficiencies be limited. The direct connections to the conventions in the processes and procedures for Port State Control have been further developed, by a requirement of including references to applicable conventions for all deficiencies found during an inspection. This requirement was established and agreed upon in July of 2014 (Paris MoU, 2014) and is fully implemented in the regional regime at the present time. It has also been expanded to be included in inspection instructions issued by Paris MoU (Transportstyrelsen, 2016a). The implementation of the Rule Check system and references to conventions has been confirmed by all Port State Control authorities which has answered the questionnaire, with exception for the Canadian authority where the references for all deficiencies are still in an implementation stage.

5.1.2 Amendments

The regulating document, the memorandum of understanding has been updated on multiple occasions through amendments since the initial version which was signed in 1982. The current document incorporates the 38th amendment (Paris MoU, 2016b).

The Paris Memorandum of Understanding was updated through amendments in 1996 to align the cooperation with the by then current EU directive 95/21/EG, as a number of the member states of Paris MoU were EU members (Paris MoU, 1996). With the EU directive was legal basis and procedures for expanded inspection introduced into the Paris MoU region. It has since then also been updated in 2010, through amendments and annexes to incorporate and align the regime with the by presents applicable EU directive for Port State Control, 2009/16/EC, which included the New Inspection Regime (Paris MoU, 2010).

Amendments are utilized to introduced new procedures and policies for inspection types. In 2003 was the policy of performing expanded inspections on older passenger vessels, bulk carriers, oil tankers, chemical carriers and gas carriers implemented (Paris MoU, 2002), which today is applied on the said vessels types which are older than twelve years.

5.1.3 Targeting factors

Procedures in the selection of vessels for inspection have varied within the cooperation over the years. Targeting factors utilized for determining the vessel which is most likely to be at risk of being substandard have been improved and expanded over the years. The factor which has been included over long time periods is the performance of the flag state in which the targeted vessel is registered (Paris MoU, 1998). In the after match of the high profile maritime disaster and following oil spill

of *Erika* were the targeting factors subject to updates, where the poorest performing flags received a heavier weight in processes for targeting vessels for inspection (Paris MoU, 2000). With the introduction of the New Inspection Regime were the procedures for selecting vessels completely redesigned, as the quota of inspecting 25% of all visiting foreign vessels were removed and replaced with a regime where all visiting vessels are inspected in a specified time window. The flag state of a vessel is still an important targeting factor and is included in the risk profile calculations in the current regime, along with factors as the performance of the appointed recognized organization for the vessel, the company responsible for operation of the vessel and previous inspection results (Paris MoU, 2016b). Flag states have been categorized by the Paris MoU into three different lists since the year 2000, the Black, Grey and White List. Where the flag's performance is the determining factor of where it is listed (Paris MoU, 2000).

5.1.4 Development and implementation of the Detention Review Panel

Appeal procedures against detentions were introduced on trial in the Paris MoU in 2001 with the establishment of the Detention Review Panel (Paris MoU, 2001a). The trial of the review panel was conducted for two years and became a permanent part of the Paris MoU in 2003, following the successful trial period (Paris MoU, 2003). The development of the appeal procedures was initiated after requests of it from various parties, among these the international shipping association BIMCO (BIMCO, 2016).

5.1.5 Guidelines and instructions

One of the core purposes of the Paris MoU is to create a harmonized implementation of Port State Control in the region. Achieving this requires harmonized procedures and processes. In order to strive for harmonization and standardisation has Paris MoU continuously issued and updated guidelines and instructions for the PSCOs (Paris MoU, 2005). In the current status are there detailed instructions over procedures, clear ground for expanding inspection and for detention. Together with references to conventions for approximately all aspects connected to Port State Control inspections (Transportstyrelsen, 2016a).

Major decisions relating to instructions and procedures for PSCOs were made in 2005. It was then agreed to develop comprehensive inspection procedures for the cooperation (Paris MoU, 2005). Specialized instructions for inspections of various vessel types have been issued throughout the years and been under continuous revision and development (Paris MoU, 2005; Paris MoU, 2011; Paris MoU, 2013). In order to maintain quality assurance of the processes was it decided by the Paris MoU secretariat in 2008 to develop a Quality Management System in accordance with the ISO 9001:2008 standard (Paris MoU, 2008). By 2011 was the Quality Management System for the Paris MoU secretariat certified in accordance with the standard (Paris MoU, 2011).

5.1.6 Development in Publications

In the work of eliminating substandard vessels in the region has the Paris MoU utilized public publications in various forms to repeal substandard vessels from

entering the region. The intention is to ensure that owners of substandard vessels are aware that substandard vessel will be inspected, detained and the information of the detention will be publically available (Transportstyrelsen, 2016a).

The Paris MoU began publishing poor safety records in 1994 (Paris MoU, 1996) and the publications expanded vastly when the Paris MoU website was launched in 1997 (Paris MoU, 1997). The first major step of online publication came in 1998 when the Paris MoU introduced a monthly list of detained vessel on the website, the list also included information on the owner or operator of the vessel (Paris MoU, 1998). Following the introduction of the monthly list of detained vessels within the region was a large interest in the website and the list from various stakeholders recognized by the Paris MoU. The next development step for the webpage and publications was made in 1999. When a similar monthly list over companies, with more than one vessel detained in the last twelve months, and companies responsible for the operation of a vessel which had been detained more than once in the same time window was published (Paris MoU, 1999).

In 2000 was the website and the database for Port State Control inspection reports updated on a major level. The new database enabled advanced search functions in the database for the users of the website with an update interval on a weekly basis, see figure 1. Stakeholders as charterers and insurers showed a high demand in this function as it was launched. To raise awareness of substandard vessels were publications of “rustbuckets” featured on the website, where detailed reports of particular substandard vessels were uploaded (Paris MoU, 2000), which can be found at present time with the title “Caught in the net”.

Figure 1 Inspection database with advanced search function 2001 version (Paris MoU, 2001b)

As it can be seen in figure 1, which is accessible from online archives over websites dated in 8th of June 2001, could the user access information of inspection reports with details beyond the previous lists of detained vessels.

Further development in terms of details in the reports has since been made on the database. In 2002 was it decided to record and publish in the reports details of the charterer of vessels carrying solid or liquid bulk as cargo (Paris MoU, 2002). The weekly update of the database was removed in 2004 to be replaced with a live update. Meaning that the inspections reports became available for the public at the time it was uploaded to the database by the authorities, the available reports also contained more detailed information (Paris MoU, 2004). Another feature of the website which was introduced in 2003 is the list over currently detained vessels. This list complemented the previous monthly lists over detained vessels as it provided a live information flow of detained vessel, as information on detained vessels had before been uploaded after the lifting of the detention (Paris MoU, 2003). The current search engine on the website provide detailed information of inspection reports, with details of all deficiencies found on a vessel and is available for the general public (Paris MoU, 2016f).

The webpage is not only utilized for raising awareness of substandard shipping practices. Throughout the years has the official webpage been utilized to improve the transparency of the Port State Control regime. In 1999 were information on Port State Control procedures in the regime published (Paris MoU, 1999). Since then has the Paris MoU secretariat continuously released information following the agreement to improve the transparency in 2005 (Paris MoU, 2005). Certain inspection guidelines started to be published for the general public in 2012 (Paris MoU, 2012), particularly for inspection campaigns. The improvement of transparency of the Paris MoU through publication is to be intensified in coming time. In the scheduled meeting of the Port State Control Committee of the Paris MoU secretariat of 2016 shall it be decided to publish publically adapted versions of Port State Control Inspection Instructions on the public website (Transportstyrelsen, 2016c).

5.1.7 Development in training of PSCO

Training and education of PSCOs are on of the primary mean of standardizing and harmonizing the performance of Port State Control within the region (Transportstyrelsen, 2016a). The training of PSCOs has been developed from two Port State Control training seminar per year, which predates 1996 (Paris MoU, 1996), into more complex and elaborated training systems.

The initial recognition from the Paris MoU, that a need for more in-depth training in terms of an advanced training program for the PSCOs emerged in 1996 (Paris MoU, 1996). The development of the advanced training program started in 1997 (Paris MoU, 1997) and the first sessions of Specialized training was held in 2002 (Paris MoU, 2002). Followed by full introduction of expert and specialized training courses in 2003, with expert training sessions twice per year and specialized training once per year (Paris MoU, 2003). Platforms for continuous training was further expanded in the following year with a distance learning programme for PSCOs (Paris MoU, 2004). Another platform for training and harmonization was introduced in 2008, the New entrant and refresher program, where inspection scenarios are used as case studies for PSCOs, new and experienced, to train in the procedures from the selection of a vessel to the filing of the report, with the aim to improve harmonization (Paris MoU, 2008). This program has since become a mandatory part of the qualification for new PSCOs (Paris MoU, 2010).

The four major training platforms are aimed to develop different fields for the PSCOs. The introduction of the distances learning program aimed the platform to function as preparation for PSCOs before the expert and specialized training (Paris MoU, 2005). The Port State Control seminars are focused on newly introduced requirements, inspection campaigns and other immediate issues (Paris MoU, 2014). Specialized training has a different focus and theme every year and the expert training focus on the environment and the human element and safety (Paris MoU, 2003). The training programs and schemes have since been continuously updated and developed to maintain the procedural and technical knowledge of the PSCOs in the region (Paris MoU, 2009). In the training programmes are the established PSCC instructions utilized to improve the harmonization of the inspections in the region (Transportstyrelsen, 2016a).

Apart from the training programs has the connected policy for training of PSCOs been under numerous updates since 1996. One of the major steps was taken in 2005 when it was proposed to develop a new policy which would involve an examination of all aspects of training procedures in the Paris MoU cooperation, and a consideration of introducing a standard for all training of PSCOs (Paris MoU, 2005). This proposal was embraced by the executive body of the Paris MoU in the following years. The new training policy was under development during multiple years and was implemented in 2009 (Paris MoU, 2009) and since been subject to further development throughout the years (Paris MoU, 2014).

5.1.8 Discussion on the development of Paris MoU

The Paris MoU has seen much development in the recent two decades over a broad spectrum of aspects as; training, communication, procedures and aids. Training of PSCOs is one of the most essential variable in achieving a uniform and harmonized inspection regime. As if the PSCOs does not make the same judgement and interpretation, is it impossible to provide an equal treatment of vessels in inspections. The training schemes implemented in the Paris MoU have seen vast development in recent times, going from two annual seminars to having four types of training programmes and also distance training programmes. Complemented with various training are the PSCC instructions which are utilized by the PSCOs while performing inspections and also used during training. This combination provides glances of real possibilities for achieving full harmonization throughout the region, especially as versions of these instructions are to be published for the general public.

Replacing the old inspection regime based on a quota for each member state with the risk based New Inspection Regime can be considered one of the greatest steps taken by the Paris MoU. With the new regime are in practical terms, all vessels within the region subject to be inspected at one point. Together with the established time window for each category can the inspection no longer be considered to be an unannounced and surprise inspection. Meaning that ship owners can be prepared to some extents when a vessel is within its time window for a periodic inspection. Furthermore, the praxis of inspecting all vessels reduces risks and possibly removes the risks of unfair targeting or avoidance of specific vessels. It also rewards ship owners and vessels with good inspection history as the inspection frequency is lower for low risk ships. With subject to the age of the vessel, as certain ship types over the

age of twelve years are automatically subject for expanded inspection and the highest frequency of periodic inspections.

The information flow and publications from the Paris MoU has become a powerful tool in the process of eliminating substandard vessels in the region, primarily as a warning system, which shows that vessels that are substandard will be inspected, detained and in various form shamed. It has also been highly utilized by other stakeholders, most important, with high impact for a ship owner, the charterers. This information flow, especially the inspection records provide charterers means of checking the inspection history of a vessel they are considering to charter. The easy access and the highly frequently updated database also enable possibilities for stakeholders to follow up on vessels of interest. This reality for ship owners is that charterers can access the inspection reports almost instantaneous after the inspection is completed. The previous system applied by Paris MoU released only information regarding detained vessels, in earlier stages was the information released first after the detention was lifted. This approach was replaced with current lists over detained vessel and thereafter has the current system of access to all inspection results become available. The implication for the ship owner can be argued to be that there is in practice no grace period to appeal against the results to no other party than the PSCOs, before the results becomes available for various interest parties. In either case if the PSCO has made a mistake while performing the inspection or not, the consequences for the ship owner have most likely already taken place if the ship owner decides to appeal or file a complaint.

The question is if Paris MoU even should be questioned for this practice of releasing information, the primary purpose of Port State Control is still to ensure that foreign vessels are in compliance with international rules and standards, and the publication of inspection reports are just one of their tools which are applied. The applications various interest parties apply for the information could be argued to be out of their hands and it is not the responsibility of Paris MoU. In the same circumstance can it be argued that in this instance, Paris MoU facilitates the application of the information and thereby at some level causes indirect damage to the ship owner in situation where mistakes have been made. In the same situation can it be argued that the information available facilitates fair competition on the market on multiple levels. Detention of a substandard vessel takes the vessel out of the market until the deficiencies has been rectified, and the release of information provide charterers with means of avoiding substandard vessels.

While examining the development of the publications can it be seen that the Paris MoU website was under heavy updating in the early 2000's, probably as the internet emerged and expanded quickly in this time period. It did not take many years before it enabled the public to gain access to the database of inspection results. With this reflection can it be questioned, if the question of "can we?" surpassed the question of "should we?", at present time has the relevance decreased, as the search functions has been available for over ten years and is part of the reality for all stakeholders.

What could be argued to be the least developed aspects is the Detention review panel. It can be seen as a major step for the Paris MoU to provide means for ship owners to make an appeal towards an independent body to have a detention order reviewed, as an alternative from appealing against the port state itself. Since the permanent

implementation of the review panel in 2003 has no major development of it been found for this thesis. It has to be remembered that the panel review only accepts request of review regarding detentions. Questions can be raised if this is enough in today's reality, where all deficiencies found on board a vessel has consequences, in terms of calculating the vessel's risk category and its commercial position.

The tools available for the PSCOs, especially the regional wide applied PSCC instructions and the Rule Check System gives the perception that the risks of unfair treatment of vessels and conflicts between the ship owner and the Port State Control authority might be fully managed and eliminated. The instructions provide clear guidelines for procedures for the inspection, and the Rule Check System ensure that the right regulations are applied. Despite this are still inspection results appealed against and disagreements exists. With the upcoming publications of adjusted versions of the PSCC instruction can the interactions between a vessel's crew and the PSCOs possibly improve, in case the published instructions contain clear guidelines of how the inspections are performed and how the compliance with regulations are controlled. This argument is based on the possibilities ship owners and crews get by having consolidated guidelines from a majority of applicable regulations, which reduce the required effort to perform their own inspections to ensure that the vessel is in compliance with said regulations.

Paris MoU has seen much development since the start in 1982, the cooperation has managed to remain effective and improved its efficiency. Despite the inherent difficulties to reform regimes and agreements when multiple states are involved, with different interest and goals, has the cooperation managed to achieve steady development in many aspects over the years. Electronic aids as software have been successfully implemented and the strive for harmonization has not halted, but it remains to be a continuous process. Increased transparency through publications of guidelines and procedures can possibility facilitate the next step of improvements and lower barriers between the ship owners and the Port State Control authorities.

5.2 Developments in the STCW code between 95 and 2010 versions

The finding in the empirical research gave indication from multiple parties that interpretation of applicable regulations can be a possible cause of conflict. Together with the indication from BIMCO that inexperienced and improperly trained crew members are another likely cause of conflicts, has the development of the STCW code between the STCW 95 version and STCW 2010 version been examined. In order to compare the development of the standards for training of crews, with the development of the application of Port State Control in the Paris MoU cooperation.

The examination has been focused on bridge officers and the specified competences of Monitor compliance with legislative requirements in table A-II/1 and monitor and control compliance with legislative requirements and measures to ensure safety of life at sea, security and the protection of the marine environment in table A-II/2. Where the minimum standards for bridge officers in charge of navigation on board vessels of five hundred gross tonnage or higher are specified, respectively for masters and chief mates. (International Maritime Organization, 2011b)

Training record books applicable for the standards in table A-II/1, in accordance with the two versions of the code have also been examined to provide a view of the practical application of the on board training for the competence of monitoring compliance with legislative requirements for officer cadets. This is the particularly interesting competence as Port State Control is performed to ensure that foreign vessels are in compliance with international rules and standards. Combined with the high emphasise put on the on board learning in the STCW code (International Maritime Organization, 2001).

The knowledge for monitoring compliance with legislative requirements which is required to be certified as officer in charge of navigation, in accordance with the STCW convention as amended and the relating STCW code, including the 2000 amendments. Is specified as; “Basic working knowledge of the relevant IMO conventions concerning safety of life at sea and protection of the marine environment” (International Maritime Organization, 2001 p. 39). The criteria for the competence is specified in the code as; “legislative requirements relating to safety of life at sea and protection of the marine environment are correctly identified” (International Maritime Organization, 2001 p. 39).

The practical tasks specified for the cadets in accordance with STCW 95, are divided into three overarching sections in the training record book. The first section focuses on locating the applicable regulations. The tasks for the cadets involves locating copies of the SOLAS and MARPOL conventions and copies of certificates which have been issued in accordance with applicable regulations, with emphasis on STCW, SOLAS, Load Lines and MARPOL. The second section involves problem solving of on board operations with legislations as the aid. These tasks include performing on board operations as bilge pumping and disposal of garbage in compliance with the MARPOL convention. Furthermore, providing assistance in performing preparatory inspection of lifesaving equipment and participating in preparatory inspections for surveys connected to the load line certificate. The last section contains the task of performing a search for stowaway on board the vessel. (International Shipping Federation, 1996)

By performing a comparison of the STCW 95 code including the 2000 amendments with the STCW 2010 code containing the 2010 amendments can the development and updates of the standards be identified. When examining the competence of monitoring compliance with legislative requirements in table A-II/1 in the 2010 edition of the STCW code are the found differences minor. The only additions compared to the older version is that the word ‘security’ has been added in the phrasing for required knowledge and criteria for the competence (International Maritime Organization, 2011b).

Comparing a training record book which is in accordance with the 2010 amendments of the STCW code with the replaced versions can the development of on board training in accordance with the STCW code be examined. The first section of task for the competence of monitoring compliance with legislative requirements has been updated with inclusion of the task of locating a copy the vessel’s garbage record book, apart from the SOLAS and MARPOL conventions. The task of locating copies of certificates which has been issued in accordance with applicable regulations has been updated to include emphasis on certificates issued in accordance with ILO

conventions. No other updates under the competence in the training record book has been identified. (International Shipping Federation, 2012)

The requirements in table A-II/2, for masters and chief mates on vessels of five hundred gross tonnage or higher are understandably higher compared with the equivalent requirements for the same tonnage range in table A-II/1. The requirements of knowledge, methods of demonstrating knowledge and criteria for fulfilment of the competence according to the minimum standard in the STCW code, including the 2000 amendments can be read in table 1.

Competence	Knowledge, understanding and proficiency	Methods for demonstrating competence	Criteria for evaluating competence
Monitor and control compliance with legislative requirements and measures to ensure safety of life at sea and the protection of the marine environment	<p>Knowledge of international maritime law embodied in international agreements and conventions</p> <p>Regard shall be paid especially to the following subjects:</p> <ol style="list-style-type: none"> .1 certificates and other documents required to be carried on board ships by international conventions, how they may be obtained and their period of validity .2 responsibilities under the relevant requirements of the International Convention on Load Lines 	<p>Examination and assessment of evidence obtained from one or more of the following:</p> <ol style="list-style-type: none"> .1 approved in-service experience .2 approved training ship experience .3 approved simulator training, where appropriate 	<p>Procedures for monitoring operations and maintenance comply with legislative requirements</p> <p>Potential non-compliance is promptly and fully identified</p> <p>Planned renewal and extension of certificates ensures continued validity of surveyed items and equipment</p>
Monitor and control compliance with legislative requirements and measures to ensure safety of life at sea and the protection of the marine environment (<i>continued</i>)	<ol style="list-style-type: none"> .3 responsibilities under the relevant requirements of the International Convention for the Safety of Life at Sea .4 responsibilities under the International Convention for the Prevention of Pollution from Ships .5 maritime declarations of health and the requirements of the International Health Regulations .6 responsibilities under international instruments affecting the safety of the ship, passengers, crew and cargo .7 methods and aids to prevent pollution of the marine environment by ships .8 national legislation for implementing international agreements and conventions 		

Table 1 Minimum standards for chief officer and master related to fulfilment of legislative requirements (International Maritime Organization, 2001)

It should be noted that the methods for examination and assessment are primarily from on board experience or training vessel experience, which falls in line with the strong emphasis of on board experience in both versions of the STCW code (International Maritime Organization, 2001; International Maritime Organization, 2011b). Therefore, has non training record book been evaluated for this competence, due to the emphasis on the on board training and no applicable training record book has been available.

The updated code containing the 2010 amendment has some minor changes compared to the replaced version. In the description of the competence has 'security' been added and references to conventions have been updated to include 'as amended'. In the criteria has no update been made. (International Maritime Organization, 2011b)

5.2.1 Discussion on the connecting standards in the STCW Code

The training and education of bridge officers in the position of officer in charge of navigation, chief mate and master are long and requires knowledge in a broad spectrum of functions and competences. For this thesis have two competences been of interest as they involve compliance with legislative requirements, which is what Port State Control perform inspections to ensure. By comparing the two latest versions of consolidated STCW codes has it been attempted to gain insight in how the training and education of crews in officer positions have been developed. Within a similar timeline as the examination of the development of Paris MoU. By including a comparison of training record books can also the adaptation of the minimum standards be examined. It has to be remembered that the STCW code is part of the STCW convention, which is an international convention with far higher number of state parties than the Paris MoU. Making amendments processes more complex compared to updating the practices and guidelines in the Paris MoU.

Despite the technological development in the last two decades and updated regulations, have not much been updated in the minimum standards. For the training of monitoring and ensuring compliance with legislative requirements for crew members in officer positions. The minor updates identified only concern updates of phrasing, the updates in the training record book are in a similar level, with a minor exception for identifying the location of an addition document on board. With the strong emphasis on training on board vessels can it be argued that the competence received by cadets will be up to date with the current practices for ensuring compliance with regulations. At the same time can it be argued that the approach of putting too much emphasis on the training on board does not add any new knowledge and that there is a probability of the knowledge gets locked in and remains on the same level.

Remembering the fact that the high profile disasters of *Erika* and *Prestige* took place in between these two consolidated versions of the STCW code. Despite these two disaster involving two tankers which was not in compliance with applicable regulations, and both disasters resulted in environmental damages from the consequential oil spills. Have no visible updates been made in the minimum standards for monitoring the compliance with regulations.

Compared with the development within the Paris MoU is it unavoidable to raise question if the crews are as well equipped in the interactions with the PSCOs when a Port State Control inspection is performed. The PSCOs have seen much development both in training and in their aids and tools for performing the inspection, much more compared to the visible development of the STCW code. Reflecting on the importance the Port State Control inspection reports have in current time and the accessibility of the information, should this area of the training and education receive better focus in situations, where the STCW code's minimum standards are not exceeded. This is in interest for ship owners and maritime institutes. For ship owners, especially with older tonnage where the expanded inspection comes as standard in many cases can a well trained crew ensure the vessel's compliance and avoid unnecessary minor deficiencies. For maritime institutes can a higher emphasis on this subject give a competitive edge for its cadets and students, as the shipping industry is a truly global industry and has actors in various sizes and tonnage.

Further research in this area with examination of the education maritime institutes provide cadets could provide better insight in this subject, as the STCW code only provide minimum standards. Combining it with empirical studies of how officers new in their position perceive Port State Control inspections can a holistic view be achieved. Furthermore, this thesis has not included the aspect of how individual shipping companies and ship owners address Port State Control in terms of in-house education for the crew. Research in this area of the subject could provide clarity and falsifying or conforming the argument for a possible unbalance of knowledge between PSCOs and crews.

5.3 Appeal procedures

In situations where a ship owner experiences the inspection results to be unjustifiable or incorrect are several options available to make an appeal against the decision or raise concern. Appeals against individual deficiencies on the inspection report are to be made against the Port State Control authority which performed the inspection (Paris MoU, 2016e). Complaints against the quality of the inspection can also be made directly to the national authority, which has been indicated from multiple authorities which participated in the empirical research. Appeals against decisions of detention can be made directly to the member state which issued the detention order or through the flag state or recognized organization to the Paris MoU secretariat. In cases of detention and an appeal has been made through the responsible national authority or the Paris MoU secretariat will the detention not be lifted until a ruling of the case has been made (Paris MoU, 2016b).

The incentives for appealing on the inspection results are to have the report corrected, as it is publically available. Furthermore, in case of detention, and the detention is found to be unjustifiable and the ruling on the appeal overturns the detention order is the ship owner entitled compensation (Paris MoU, 2016b).

The recommendation from the Swedish Transport Agency for ship owners when the ship owner experience the inspection to be unjust or incorrect, is to contact the flag state for support. Particularly in cases where the inspection is performed by a member state of the Paris MoU and the flag state is also a member, as the two states have good direct connections. (Transportstyrelsen, 2016a)

5.3.1 Paris MoU provision

Appealing against decisions made by a PSCO are primarily advised to be directed to the port state where the Port State Control inspection has been performed (Paris MoU, 2016d). In cases of detention of a vessel, the ship owner or responsible operator have the right to appeal through the vessel's flag state or recognized organization, directly to the Paris MoU secretariat. The appeals are being reviewed by an appointed review panel within the Paris MoU and are limited to only review cases where the inspected vessel has been detained (Transportstyrelsen, 2016a).

The appeals filed means in practice that the flag state or the recognized organization requests the secretariat to review the ruling of the member state's authority which detained the vessel. It is required to be the flag state or the recognized organization which sends in the request and within a hundred and twenty days from the lifting of

the detention, as it will otherwise be rejected as an incorrect request. The review panel consist of representatives of four member states, the flag state (if applicable) and the port state in the case are excluded in the rotational selection procedures. (Paris MoU, 2016d)

Along with the request for a review shall the flag state or the recognized organization submit information and evidence for the review (Paris MoU, 2016d). During the review process will information from the port state be requested by the panel. The review process put emphasis on the procedural aspects with a control if the established procedures have been followed (Transportstyrelsen, 2016a). Along with the technical aspects of the inspection based on the submitted data. Thereafter will the participants of the review panel form an opinion on the case and provide a recommendation to the port state (Paris MoU, 2016d). The recommendation made by the review panel is either a recommendation to the port state to reconsider its decision as the detention was found to be not justifiable, or that the case does not require a reconsideration (Paris MoU, 2011). It has to be remembered that the decision on the case made by the review panel is not legally binding and only serves as a recommendation, as the Paris Memorandum of Understanding is only an agreement and not a legal binding convention (Transportstyrelsen, 2016a). In the majority of the cases will the recommendation of the review panel be followed by the port state, the Paris MoU annual report contains information on figures for requests made to the review panel and the following recommendations.

5.3.2 Member states' National Appeal procedures in Paris MoU

The member states provide means for appealing against decisions of detention, against individual deficiencies (Paris MoU, 2016e) and in some cases raise concerns regarding the quality of the inspection. In all cases of appeals lies the burden of providing proof with the ship owner (Paris MoU, 2016b). This section is based on a literature review of publically available sources from each member state and data from gathered from the participating states in the empirical research.

5.3.2.1 Belgium

The available clear option of appealing against the outcomes of Port State Control inspections in Belgium is concerning detention of a vessel. Appeals are to be directed towards the Maritime Board of Investigation and shall be made through a written letter with motivation for appealing and sent within fourteen days after the vessel was detained. The appeal is required to be made in English and written by the ship owner or the master of the vessel. (Paris MoU, 2015)

5.3.2.2 Bulgaria

Options for appealing against rulings of the Port State Control authority in Bulgaria appears to be limited to appeals against detentions. Multiple stakeholders have the right to appeal; ship owner, ISM operator, master of the vessel and other stakeholders with interest in the ruling. The appeal shall be addressed to the Executive director of the Maritime administration through the regional directorate. Another option is to direct the appeal against the detention decision to the Regional Administrative court, but still through the regional directorate of the maritime administration. Both courses

of action for appealing is required to be performed within fourteen days after the issuing of the detention and be sent by letter in Bulgarian. (Paris MoU, 2015)

5.3.2.3 Canada

Ship owner and the master of the vessel are entitled to appeal against the ruling of the Port State Control Authority in Canada, in cases where the vessel has been detained (Paris MoU, 2015). The appeal shall be sent to the National Vice-Chairman of Transport Canada Marine Safety within thirty days after the detention order where the decision of detention is reviewed by the board of Marine Safety. Forms of communication include; written letters, fax and e-mail in English or French (Transport Canada, 2015; Paris MoU, 2015). Appeals against non detainable deficiencies are to be directed to the regional office of Transport Canada or to the head quarter office (Transport Canada, 2016).

5.3.2.4 Croatia

The only clear and available information on options for appealing against ruling of Port State Control authorities in Croatia is limited to appeals against detention orders. The appeal shall be sent via the, for the vessel assigned inspection department within fifteen days after the order of detention has been issued. The appeal is reviewed by an independent body of the Minister's cabinet. Thereafter is the ship owner entitled to take legal action in court, if the result from the review is unsatisfying. Communication channels available is depended on the assigned inspection department, written letter and fax are assured. (Paris MoU, 2015)

5.3.2.5 Cyprus

Available information for appealing procedures in Cyprus are focused on appeals against detention orders. The appeal has to be made within forty-eight hours (under working days) after receiving the detention order, it can be made by the ship owner, master, ISM operator or a representative of the ship owner in Cyprus. The appeal is to be sent to the Director of the Department of Merchant Shipping. The Director reviews the appeal and is required to hear the interested parties view or provide the interested parties the possibility to lift forward their view. Thereafter take actions as revoking the appeal or the detention. In cases where the detention is not revoked and the interested party of the detained vessel wishes to have the case reviewed at higher authorities. It is possible to bring the case before the Minister (available publications does not specify of which post) within five days after receiving the ruling of the Director of the Department of Merchant Shipping. The ship owner is also entitled to appeal the rulings and actions of the Port State Control Officer and/or Port State Control authority before the Supreme Court of Cyprus. This right is applicable for any administrative decision made, therefore possibly including non detainable deficiencies. (Paris MoU, 2015)

5.3.2.6 Denmark

The Danish Maritime Authority is the government body which exercise Port State Control in Denmark (Danish Maritime Authority, 2016a), in accordance with Danish law is a Shipping Tribunal established which can review appeals against decisions of detention made by the Danish Maritime Authority (Danish Maritime Authority,

2016b; Danish Shipping Tribunal, 2016). The members of the Tribunal are appointed by various Danish ship owner associations and seafarer organisations, the chairman is required to be a High Court Judge and is appointed by the Economic and Business Affairs minister of Denmark (Danish Maritime Authority, 2016b). Conflict of interest is avoided by requirements that the members of the Tribunal shall not hold authority to make decision which can be subject of being reviewed by the Tribunal (Danish Maritime Authority, 2005).

The appeal against the decision on the Port State Control inspection is required to be submitted through written letter, fax or email within four weeks after the inspection and have to be made by the ship owner (Paris MoU, 2015). The Tribunal is entitled under Danish law to perform investigations and inspections on board vessels to the same extent as the authority which the appeal is directed against (Danish Maritime Authority, 2005). The decision of the Tribunal can be used in a court of law (Danish Maritime Authority, 2016b).

5.3.2.7 Estonia

Information on appeal procedure in Estonian ports differs between Paris MoU publication and official Estonian channels in terms of which interest party can appeal against detention orders. In Paris MoU publications is the ship owner or its representative the party which are entitled to submit the appeal, according to the Maritime Administration of Estonia is also the ISM Operator entitled to file an appeal. (Republic of Estonia Maritime Administration, 2016; Paris MoU, 2015)

The only decision which can be appealed covered by both sources are decisions of detention of the vessel (Republic of Estonia Maritime Administration, 2016; Paris MoU, 2015). The appeal against detention of a vessel is required to be made within thirty days after receiving the detention order and shall be addressed to the head of the Maritime Safety Division in the Maritime Administration (Republic of Estonia Maritime Administration, 2016). Thereafter is the ship owner or its representative entitle to appeal the ruling of the Maritime Safety Division with an administrative court (Paris MoU, 2015).

5.3.2.8 Finland

Decisions made by the Finnish Transport Safety Agency following an inspection of a vessel may be appealed against, this includes both detention orders and non detainable deficiency remarks (Trafi, 2016).

The appeal can be made by any interest party, it has to been made within fourteen days after the detention order has been issued and received by the Finnish Transport Safety Agency within thirty days. The appeal shall be made in English and may be sent electronically via email or fax, in written letter or delivered in written by person. (Paris MoU, 2015)

5.3.2.9 France

French legislation allows the ship owner, master or the ISM operator to submit an appeal against decisions made by a PSCO. The appeal is to be submitted to the chief of safety vessel centre in English or French, by letter, fax or e-mail within fifteen days

after the decision which is appealed has been made. In cases where the ruling of the appeal from the chief of safety vessel centre is unsatisfying for the party filing the appeal can an appeal be raised against that decision to the ministry in charge of the sea. The appeals can be submitted in written letter, by fax or e-mail. (Paris MoU, 2015)

Appeals against non detainable deficiencies and raising complaints against the quality of the inspections can be done on three different levels. The first level is with the PSCO performing the inspection. In case the disagreement is not resolved in the first level can the ship owner bring the appeal or complaint to the attention of the head of the Port State Control office. The third level for appeals and complaints is with the office acting in the name of the responsible minister. (Direction des affaires maritimes, 2016)

5.3.2.10 Germany

Ship owners and ISM operator are entitled to raise an appeal against the detention orders issued by German Port State Control Authorities (Deutsche Flagge, 2016; Paris MoU, 2015). The appeal is required to be delivered before the Ship Safety Division of BG Verkehr within one month after the issuing of the detention order (Paris MoU, 2015). It can be sent by letter, fax or per email, if the documents are sent by email is it required to be signed personally by the party raising the appeal (Deutsche Flagge, 2016).

Appeals against specific deficiencies, detainable or non-detainable are also processed by the responsible authority. These appeals can be made by the ship owner through email, fax or written letter and shall be addressed directly to the authority. Complaints against the quality of the inspection can be made through the same procedure. (Port State Control Germany, 2016)

5.3.2.11 Greece

The available information (in English) on procedures for appealing Port State Control in Greece covers only appeals against detention of a vessel. The appeal is required to be made within thirty days after the issuing of the detention and is to be submitted to the Minister of Citizen's Protection. In cases where the ruling of the Minister is not satisfied, the ship owner or the ISM operator is entitled to bring the case further to an administrative court. The appeal can be sent by written letter, fax or email. (Paris MoU, 2015)

5.3.2.12 Iceland

Appeal procedures in Iceland appears to be limited to appeals against detention of vessels. The ship owner is entitled to file an appeal against the decision to detain the vessel within three months. The appeal shall be sent by written letter or fax to the Ministry of the Interior. (Paris MoU, 2015)

5.3.2.13 Ireland

The national legal framework applied in Ireland is based on the EU directive 2009/16/EC (electronic Irish Statute Book, 2011), which only covers appeal

procedures for detention of a vessel (European Parliament, 2009). In accordance with the EU directive has Ireland facilitated the right for ship owners and ISM operators to appeal against detention orders. The appeal is required to be made within seven days after the detention order has been issued (electronic Irish Statute Book, 2011).

Appeals shall be made to the Circuit Court with jurisdiction over the port where the vessel has been detained and sent by written letter. The Circuit Court either verify the detention or allow the appeal and overrule the detention order. In some cases, will the Circuit Court allow the appeal to move up to the High Court. (Paris MoU, 2015)

5.3.2.14 Italy

The Italian procedures and mechanisms connected to objections and appeals against Port State Control inspection is more extensive compared to some member states of Paris MoU. Apart from required appeal procedure for detention of vessels is it possible to submit complaints against Port State Control inspections which has been performed in an Italian port. (Paris MoU, 2015)

Appeals against detention of a vessel shall be submitted in English, by written letter or fax to the *Tribunale Amministrativo Regionale*, which acts as a regional court. The appeal shall be made within sixty days after receiving the detention order with an extension of thirty days if the owner is located in a European state or sixty days if the owner is not located in Europe. The appeal can be made by the ship owner or its representative in Italy. If the ruling of the regional court is unsatisfying is it possible to bring the appeal before the *Consiglio di Stato*. (Paris MoU, 2015)

Furthermore, complaints connected to Port State Control inspections can be made by the flag state, the vessel's classification society, ship owner, ISM operator, the owners representative in Italy or other parties with interest in the vessel. The complaint can be sent by written letter, fax or email, in English and be submitted within thirty days after the inspection. (Paris MoU, 2015)

5.3.2.15 Latvia

The master, the ship owner or the ISM operator are entitled to appeal against detention orders issued as a result from a Port State Control inspection in a Latvian port. The appeal shall be sent in English as a written letter and be addressed to the Director of the Latvian Maritime Administration. The appeal has to be made within thirty days after the detention order has been issued. (Paris MoU, 2015)

5.3.2.16 Lithuania

Procedures for appealing against decisions made following a Port State Control inspection in Lithuanian ports appears to be limited to appeals against detention of a vessel, based on available publications (The Lithuanian Maritime Safety Administration, 2016; Paris MoU, 2015).

The appeal is to be delivered to the Director of the Maritime Safety Administration of Lithuania, within fourteen days after the detention order has been issued and can be made by the ship owner, ISM operator or the master of the vessel, in written letter.

The appeal can be brought before an administrative court in cases where the ruling of the director is unsatisfying. (Paris MoU, 2015)

The Lithuanian Maritime Safety Administration perform quality control on their inspections by providing the master of vessels, ship owners and operators which have been inspected by the authority with a questionnaire to fill in and assess the quality of the inspection and inspector. The questionnaire covers aspects as; clarity of the reason for the inspection, if the vessel was unnecessarily delayed, the level of the professionalism the inspector held and if an incident occurred where compensation was requested for the findings found during the inspection. Furthermore, the questionnaire provides a communication channels for ship owners to providing feedback to the authority for improving the inspections carried out in Lithuanian ports. (The Lithuanian Maritime Safety Administration, 2011)

5.3.2.17 Malta

The publically available information regarding procedures for appealing against decisions made by a PSCO in Malta appears to be limited to decisions of detention (Transport Malta, 2014; Paris MoU, 2015). The appeal is to be made by the ship owner, the ISM operator or their representative in Malta and shall be made against the Court of Appeal (Transport Malta, 2014), but shall be delivered to the Executive Director of the competent authority (Transport Malta, 2014; Paris MoU, 2015). Appeals towards the Court of Appeal shall be made within twenty days from the day the detention order was issued and shall be made in written letter (Paris MoU, 2015).

5.3.2.18 The Netherlands

The national regulation for Port State Control in The Netherlands is based on the EU directive 2009/16/EC (Inspectie Leefomgeving en Transport, 2016) which only explicitly covers appeal procedures against decisions on detaining a vessel. The available information published provides inconsistency details regarding the party which can appeal against decisions to detain a vessel. Listed parties includes the ship owner and the ISM operator and detailed information stipulates that any interested party may appeal against the decision to detain a vessel (Inspectie Leefomgeving en Transport, 2016; Paris MoU, 2015). The Appeal is to be made in English or Dutch and sent as a written letter or fax to the Inspector-General of the Netherlands Shipping Inspectorate, and will thereafter be relayed to the Ministry of Infrastructure and the Environment (Inspectie Leefomgeving en Transport, 2016).

5.3.2.19 Norway

The Norwegian regulations on the rights to appeal on Port State Control inspections includes appeals on both detention and any deficiency on the report (Norwegian Maritime Authority, 2016). Appeals against detention is to made within three weeks after the issuing of the detention order by written letter against the Norwegian Maritime Authority in English (Paris MoU, 2015), by the ship owner, the ISM operator or the respective representative in Norway (Norwegian Maritime Authority, 2015). Appeals and complaints against non detainable deficiencies are also required to be sent within three weeks to the Norwegian Maritime Authority (Norwegian Maritime Authority, 2016).

5.3.2.20 Poland

Ship owner and the master of a detained vessel have the provision of appealing against the decision to detain said vessel in accordance with Polish national law. The appeal shall be made by written letter in English or Polish within fourteen days after the issuing of the detention order. Appeals are to be addressed to the Polish ministry of infrastructure and development but shall be sent through the director of the relevant maritime office. (Paris MoU, 2015)

5.3.2.21 Portugal

The procedure for appeals against the ground of detention stipulates that the ship owner, the ISM operator or the responsible flag state or the recognized organisation shall make the appeal against the *Diretor-Geral de Recursos Naturais, Segurança e Serviços Marítimos*. Appeals against a detention order can be brought before the Maritime Court of Lisbon. The appeals can be sent by written letter or by fax in English. Any appeal is required to be filled within ten days after the issuing of the detention order. (Paris MoU, 2015)

5.3.2.22 Romania

Romanian national legislation provides two means of appealing against detention orders issued by the Port State Control authority. The first mean is to lodge a complaint against the decision to the General Director of the Romanian Navel Authority. Ship owner, ISM operator or the vessel's representative in Romania are entitled to file the complaint, by written letter or fax. The complaint is required to be submitted within thirty days after the issuing of the detention order. In cases where the ruling on the first complaint is not satisfactory for the ship owner or ISM operator, the party can bring the appeal before the Constanta Court of Appeal, which is required to be done within six months after the issuing of the detention order. (Paris MoU, 2015)

5.3.2.23 The Russian Federation

Actions taken by the Port State Control authority in Russia can be appealed by submitting an appeal to the Harbour Master in the port where the inspection has been performed. Appeals shall be made by the ship owner or the master of the vessel by written letter, fax or other communication means based on the contact details provided by the PSCO. (Paris MoU, 2015)

Publications via the Tokyo MoU stipulates that the appeal to the Harbour Master is required to be submitted within thirty days after the issuing of a detention order (Tokyo MoU, 2016), this can be applicable as The Russian Federation is a member of both MoUs.

In situations where the ruling of the first appeal is not satisfactory is the ship owner entitled to bring the case forward to the Ministry of Transport in Russia through the vessel's flag state or recognized organization. This appeal shall be submitted by fax or through diplomatic channels. (Paris MoU, 2015)

5.3.2.24 Slovenia

The Slovenian procedures for appealing entitle the ship owner and the master to make appeals against any administrative decision made by the Slovenian Maritime Administration. The appeal shall be submitted to the Slovenian Ministry of Infrastructure and Spatial Planning as a written letter, fax or orally, in Slovenian within fifteen days after the administrative decision was made. The appealing party also have the right to bring the appeal before the Administrative Court of Slovenia in cases where the ruling of the Ministry of Infrastructure and Spatial Planning was unsatisfactory. (Paris MoU, 2015)

5.3.2.25 Spain

The national law in Spain stipulates the right of the ship owner to appeal against decisions made by the Spanish Port State Control authority which results in detention of a vessel. The appeal has to be made in Spanish and be submitted by written letter to the *Director General de la Marina Mercante* within thirty days after the issuing of the detention order. (Paris MoU, 2015)

5.3.2.26 Sweden

Detention orders issued by the Swedish Transport Authority can be appealed against at the Administrative Court in Linköping, Sweden. The appeal is to be made in written letter and sent through the The Swedish Transport Agency to the Administrative Court within twenty-one days after the issuing of the detention order. (Paris MoU, 2015)

Non-detainable deficiencies identified by a PSCO in Sweden can be reconsidered by contacting the Swedish Transport Authority, through the customer service and thereby initiate a dialog with the authority and responsible personnel regarding the dispute. This procedure also applies for any complaints regarding the Port State Control inspection. (Transportstyrelsen, 2016a)

5.3.2.27 United Kingdom of Great Britain and Northern Ireland

Formal appeal procedures in the United Kingdom of Great Britain and Northern Ireland covers only detentions, the appeal can be raised by the ship owner or the master of the vessel (Paris MoU, 2015). Detention orders can be appealed directly towards the Maritime and Coastguard Agency (Maritime & Coastguard Authority, 2016) or through an independent arbitration which requires the appeal to be submitted, by written letter or fax, within twenty-one days after the issuing of the detention order, through the Maritime and Coastguard Agency (Paris MoU, 2015). If the appealing party has selected the process through arbitration can the party not appeal through the Paris MoU Panel Review (Maritime & Coastguard Authority, 2016). In situations where the ship owner or master is not satisfied with the ruling of the arbitration is it possible to request legal advice if the High Court would rule in another favour with the same legal ground (Paris MoU, 2015).

Complaints regarding non-detainable deficiencies and the quality of the inspection are to be directed to the Maritime and Coastguard Agency. The complaint is addressed by

the Inspection Operation Branch at the agencies headquarters. (Maritime & Coastguard Authority, 2016)

5.3.3 Discussion on the appeal procedures

The established appeal procedures for ship owners and operators have a high focus on appeals against detentions, which is understandable as the economical consequences for a ship owner is severe when a vessel is detained and taken out of trade. With the Detention review panel at the Paris MoU secretariat are ship owners offered a way of appealing the decision of the port state to an impartial body to get a secondary view on the case. It has to be remembered that the review panel only provide the port state a recommendation to reconsider the decision to detain the vessel. In a situation where the panel has found the detention to be unjustified, as the Paris Memorandum of Understanding is not a legally binding convention. Appeals against inspection results which does not lead to detention are limited to be made against the national responsible authority or similar institutions of the port state. The publically available information found for this thesis have in the majority of the member states been limited to appeals against detention. With direct contact through data gathering has it been found in multiple states that the options for appealing for ship owners are more extensive to include individual deficiencies and raise concerns regarding the quality of the inspection. This fact aligns with the information on the Paris MoU website, where concerns if a deficiency is justifiable shall be addressed to the port state's responsible authority.

Questions can be raised if the available appeal procedures reflect the needs of the current reality for ship owners, with regard to the importance of all deficiencies found, justifiable or unjustifiable. Especially as many member states requires the appeal to be made through a written letter. Furthermore, also in some cases the native language of the port state is required to be used and the inspection report is uploaded in a short timeframe and is available for stakeholders and interest parties. Combined with the appeal through the review panel is required to go through the flag state or recognized organization.

Including appeals against individual deficiencies in the panel review can at first glances seem like a reasonable next step if the appeal procedures would be updated. The consequences for this approach must be reflected upon as it could possibly open a floodgate of appeals and thereby undermine the respect of the review panel, as it only provides recommendations to port states. It should also be reflected upon that it is most likely that some damage of unjustified deficiencies has already taken effect when the re-evaluation of the inspection report has been made. Revisiting the reflection in previous discussion section, if the Paris MoU and its members can be held accountable for any consequences for the ship owner, makes this issue more complex.

The high possibility of unknown numbers of unreported conflicts and disputes is troublesome, as if mistakes or uncertainties are not reported and brought to the attention of authorities is it difficult to implement improvements if so desired. Meaning that if an authority makes a mistake in an inspection, and the crew or the ship owner does not appeal or raise their concern of a mistake might have been made, is the possibilities for the authority to make improvements diminished. Achieving an

interaction between vessels and authorities with a high transparency where mistakes can be pointed out and corrected followed by improvements of procedures through dialogues is not an easy task. This would require a high level of trust between the two parties, and as Port State Control MoUs involves multiple states will it be complex to establish the necessary level of trust due to differences between states. The complexity is expanded even further as the vessels inspected in the Paris MoU region can be flagged in any corner of the world and have the ship owner based in another corner. Some nations have shown individual progress in gathering data on the views of ship owners. The responsible authority in Lithuania gathers data through a questionnaire, where the inspected vessel's master and owner can assess the quality of the inspection and are also provided with a channel for raising concerns. If this kind of practice were expanded and centralized could a possibility of improving the harmonization and the transparency be facilitated.

6 Conclusion and outlook

Port State Control is in its core purpose clear and not complicated; ensure that foreign vessels are in compliance with applicable regulations. The same can be said about the regional cooperation in Europe through Paris MoU, at first glance. Paris MoU is revealed to be far more complex than what it appears initially. The Memorandum of Understanding is after all just an agreement on how Port State Control shall be performed, built on harmonization, information exchange and cooperative training platforms, and it is not a legally binding convention. Paris MoU has nevertheless seen much development and changes over the year since it entered into force in 1982. In order to keep pace with technological developments in the industry and also to improve the practice of Port State Control. The most significant developments that has been identified in this thesis are; the introduction of the New Inspection Regime, harmonization through PSCC instructions and the Rule Check System. Together with more extensive training programmes for PSCOs. With these systems applied is it understandable that the participating authorities in this thesis have not indicated any major conflicts with ship owners, only minor areas of conflict and reasoning of what can lie behind any plausible conflicts. On the other side, the ship owners show a different view. BIMCO indicates that it is a reoccurring subject which is brought to their attention by their members, it should be remembered that the data from BIMCO is not only regarding the Paris MoU region. Despite this approach has it been revealed that there is a real possibility that there is a presence of unreported conflicts in the eyes of ship owners. At least one common ground for cause of conflicts has been identified in this thesis, even if the Norwegian Maritime Authority only indicated that interpretation of regulations can be a probable cause of conflict. Combined with the data provided by BIMCO is the cause worth to look further into, which was done by examine the development of Paris MoU and the STCW code. The findings showed that the minimum standards for monitoring compliance with legislative requirements for officers in charge of navigation have not seen any major updates. Compared to how the practices applied in the Paris MoU region with supporting tools can it be argued that the on board crews are lagging behind and an unbalance in the level of education of the two parties in an inspection can exist.

The argument is based on the fact that PSCOs utilizes electronic tools which can identify and provide the PSCO with all applicable regulations for a specific vessel through the Rule Check system. Combining the Rule Check system with the vast amount of standardised PSCC instructions with references to the applicable conventions can it become overwhelming for an officer on board a vessel to object and bring a mistake to attention, in case the PSCO makes, despite all tools and aids, a mistake. Officers have received education and training in identifying and utilizing regulations, but based on what is stipulated in the STCW code and the connecting training record book can it be doubted that the minimum standard is enough for an officer in today's reality. It has to be remembered that the STCW code only set minimum standards and maritime institute can surpass these standards, together with the training officer cadets get on board vessels is it likely that officers today surpass the minimum standard. At the same time was it pointed out by BIMCO that an inexperienced and inadequately trained crew is a very plausible cause for conflicts.

The conclusion which can be drawn regarding this cause of conflict is that further research in the subject can provide concrete facts if today's crews are provided sufficient education to meet the requirements of today, regarding monitoring and ensuring compliance with applicable regulations. A research project that follows newly graduated officers through their first Port State Control inspection could provide valuable insight in the subject.

The outlook for ship owners might look grim, Port State Control will most likely remain as a troublesome and at the same time a necessary part of the shipping industry. The legal basis for Port State Control is extensive and entitles the authorities a great power over ship owners. Combined with the information systems which is of great interest for charterers, and have a strong influence on ship owners commercial position. Internal education of crews appears to be one answer to managing Port State Control for ship owners. Interpreting the applicable regulations remains as a problem area, and with the regulations spread between all convention can development of internal training programs and control systems for compliance be time consuming. One opportunity which is in the vicinity is the expected publication of PSCC instructions from Paris MoU. Depending on the extent and the content of the publications can it be valuable for ship owners. If the publications' scope involves the majority of the inspection areas with clear guidelines for inspecting compliance with applicable regulations is it a real possibility for ship owners to time efficiently create their own inspection systems for their crews. With the fact that Port State Control inspection in the Paris MoU region is based on time windows can crews perform their own control before an expected Port State Control inspection. Thereby efficiently monitor and ensure compliance with the conventions. Without going through convention after convention and identifying applicable rules and standards for the specific vessel. In cases of a ship owner is exposed to what appears to be an incorrect performed inspection is the main recommendation to contact the flag state of the vessel for initial assistance. The conclusion which can be drawn here is that for the time being, internal training is the way to meet the Port State Control inspections.

The responsibility of ensuring that vessels are in compliance with applicable legislations lies still with the flag state and should not be forgotten. The Paris MoU is striving to improve the transparency of the regime, which can hopefully improve the interactions and provide means for ship owners to establish effective internal control schemes.

Finally, while writing this thesis has it been difficult to find research in the available databases and scientific publications in the subject of Port State Control, which does not involve the topic of its effectiveness. Further research in Port State Control regarding the interactions between the PSCOs and crews, and between authorities and ship owners could provide better insight in this subject and would be of high interest. Exploring how maritime institutes and various ship owners face the new reality with monitoring compliance with legislative requirement is a topic of interest, especially as the findings in the STCW code revealed no major developments.

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8 Appendix I

8.1 The United Nations Convention on the Law of the Sea - UNCLOS

The United Nations Convention on the Law of the Sea was adopted in 1982 and entered into force on the 16th of November 1994. The convention stipulates rights for navigation, territorial sea limits, protection of the marine environment, and economic jurisdiction among other features. (United Nations, 2012)

Several articles of the convention provide party states jurisdictional rights and powers over vessels entering the state's ports or off-shore terminals voluntarily. The rights provided by the convention are connected to pollutions from the vessels. Articles of the convention connected to Port State Control are; Article 217, 218, 219, 220 and 226. (International Maritime Organization, 2012)

8.1.1 Article 217 – Enforcement by flag States

The article stipulates the responsibility of the Flag State to assure that vessels in its registry are carrying certificates which proves that the vessel is in compliance with applicable international standards and rules, and also ensure that the vessel is fulfilling the rules and standards. The certificates are required to be accepted as evidence of fulfilment of international rules and standards by other states and viewed as having the same power as certificates issued by the other states. The only exception is if clear grounds for suspecting the vessel's condition is not in compliance with the other states certificates and therefore the certificate loses its recognized status by the other state. (United Nations, 2013)

8.1.2 Article 218 – Enforcement by port States

Port states are given the right in this article to perform investigations against a vessel in a port or off-shore terminal voluntarily, in respect to any discharges originating from the vessel, which violate applicable international rules and standards. If the investigation provides evidence is the state authorized to apply actions against the vessel. The right is limited to only be applicable on discharges which has occurred within the exclusive economic zone, territorial sea or internal waters of the port state, unless another affected state request the port state to take action. The flag state of the vessel or the state affected by a discharge has the right to request records of the investigation. (United Nations, 2013)

8.1.3 Article 219 – Measures relating to seaworthiness of vessels to avoid pollution

The article stipulates that; vessels within a port or an off-shore terminal of a state that have been determined through investigation to pose a threat to cause damage to the environment. By violating international rules and standards which are applicable in regard to seaworthiness, shall be prevented to sail from the state. The vessel may be allowed to sail to the nearest repair yard or be allowed to leave the state when the violations have been corrected. (United Nations, 2013)

8.1.4 Article 220 – Enforcement by coastal States

The article gives right to states to take actions when violations against the state's laws and regulation in accordance with the United Nations Conventions of the Law of the Sea, has been performed in the exclusive economic zone or territorial sea of that state. By a vessel which is voluntarily within a port or an off-shore terminal of that state. In regards of prevention, control and reduction of pollution from vessels, also applies for violations against international standards and rules. (United Nations, 2013)

States are allowed to perform inspections of vessels if there is clear ground for suspecting that the vessel has violated the state's laws and regulations when navigating the state's territorial sea. If evidence authorize, the state has the right to take action against the vessel, as detaining the vessel in accordance with the state's laws. Suspected violations with clear ground within the economic exclusive zone may warrant the state to perform an investigation related to the suspected violation to determine if a violation has occurred. If a violation has occurred, the state is entitled to take actions, as detaining the vessel. (United Nations, 2013)

8.1.5 Article 226 – Investigation of foreign vessels

The article stipulates that; investigations carried out in accordance of Article 216, 218 and 220 are to be limited to examination of certificates, documents and records which the vessel is required to possess in accordance with applicable international rules. More detailed inspection of the vessel shall only be performed after the initial inspection provide clear ground for suspecting that the vessel or its equipment is not in correspondence with examined documents, or the documents does not provide sufficed confirmation of a suspected violation. Furthermore, if valid certificates are not carried by the vessel. These inspections shall not cause any un-essential delay for the vessel. (United Nations, 2013)

8.2 IMO Resolutions

Resolutions originate from amendments to conventions, recommendations or agreements from the International Maritime Organization and are the finalized agreed documents (Maritime insight, 2012). Various IMO resolutions are connected to the practices of Port State Control.

8.2.1 Resolution A.682 (17) Regional Co-operation in the control of ships and discharge

Resolution A.682(17) was adopted in recognition of the difficulties for flag states to inspect and ensure that vessels flying its flags are in compliance with applicable convention. Furthermore, in the success of the regional co-operation of Paris MoU in identifying substandard vessels and thereby reducing marine pollution and increasing maritime safety. The resolution invites governments to implement regional co-operation for Port State Control globally to ensure vessels are at all time in compliance with applicable conventions, based on provision for inspection of foreign vessels under various convention as; SOLAS, Load Lines, STCW and MARPOL. (International Maritime Organization, 1991)

8.2.2 IMO resolution A.1052 Procedures for Port State Control, 2011

The resolution provides guidelines and guidance for performing inspections under Port State Control. The resolution was adopted by IMO in 2011. It contains guidelines for Initial inspections and definitions for clear grounds for performing more detailed inspections of vessels. (International Maritime Organization, 2011a)

The aim of the resolution is to provide complementary procedures for Port State Controls above national procedures. Requirements for Port State Control Officers in term of training and qualification is specified in the resolution. The qualification requirements include; that the officers should be qualified to be a chief engineer or master and hold seagoing experience, otherwise hold qualification in maritime related fields from an institution which is recognized by the state's administration. Furthermore, should also have experience as a flag state surveyor. The resolution contains a code of good practice for Port State Control Officers when performing inspections on board vessels. The purpose of the inspections under the resolution is to assure that foreign vessels are in compliance with international conventions from the International Maritime Organization and the International Labour Organization as stated in UNCLOS. (International Maritime Organization, 2011a)

8.3 Conventions covered by Port State Control in Paris MoU

Conventions from IMO lay bases for the authorization for performing Port State Control and are the applicable international rules and standards for the inspections. The conventions provide means and procedures for identifying substandard vessels which are subject to detention. IMO convention covered under the IMO resolution A.1052 includes;

- The international Convention for the Safety of Life at Sea 1974, with the Protocol of 1988 – SOLAS, as amended.
- The International Convention on Load Lines, 1966, with the Protocol of 1988 – Load Lines.
- The International Convention for the Prevention of Pollution from Ships 1973, with the Protocols of 1978 and 1997 – MARPOL, as amended.
- The International Convention on Standards of Training, Certification and Watchkeeping for seafarers 1978 – STCW, as amended.
- The International Convention on Tonnage Measurement of Ships 1969 – Tonnage.
- The international Convention on the Control of Harmful Anti-Fouling Systems on Ships – AFS.

(International Maritime Organization, 2011a)

8.3.1 SOLAS 1974 protocol 1988, as amended

The convention has its origin from the Titanic disaster and the first version of the convention was adopted in 1914. It has since been updated in 1929, 1948, 1960 and 1974. With the updated convention in 1974 was the procedure for updating the

procedure altered into a tacit acceptance and amendments procedure. This means that the convention is only amended after an update, with subject to that an agreed number of Party states does not object to the amendment. (International Maritime Organization, 2016d)

Specifying minimum standards for safety of merchant fleets in terms of operation of the vessels, equipment and construction are the primary objectives of SOLAS. It is seen as the most important convention concerning safety at sea. It is structured into chapters which cover different aspects of safety. The responsibility of assuring that vessels fulfil the standards in the convention falls on the flag states and the vessels are issued certificates as proof of compliance. The convention also provides other contracting states the right to perform inspection of vessels, in case clear grounds are present to suspect the vessel in question is not in compliance with the convention. (International Maritime Organization, 2016d)

The convention includes also requirements for compliance with international codes, which includes the International Safety Management Code (ISM-Code), the International Ship and Port Facilities Security Code (ISPS-Code) and the International Maritime Dangerous Goods Code (IMDG-Code). (International Maritime Organization, 2016d)

8.3.1.1 ISPS-code

This code provides security requirements for international shipping through a mandatory security regime for all contracting states of SOLAS. It entered into force in 2004. The scope of the code includes both the maritime and port sector. Fulfilment of the code requires all parties affected by the code in contracting states, to appoint security officers for shipping companies, designated as Company Security Officers, port facilities, designated as Port Facility Security Officers and vessels, designated as Ship Security Officers. (International Maritime Organization, 2016e)

The primary objectives for the code involves defining responsibilities and roles of every party with interest in maintaining maritime security at international, regional and national level on board vessels and in ports. Thereafter establishing frameworks for cooperation on international level, between contracting parties in detecting and assessing security threats against vessels or ports utilized for international trade and also take preventive security measure against threats. This requires information gathering and exchange at all levels applicable. The code provides methodologies for security assessment and development of security plans. Furthermore, verification of sufficient security measurement is implemented in ports and on board vessels. (International Maritime Organization, 2016e)

8.3.1.2 IMDG-code

Covering regulations stipulated by SOLAS and MARPOL, is the IMDG-code providing further detailed requirements for the carriage of dangerous goods at sea. The aim of the code is to increase the safety of carriage of dangerous goods to prevent harm to the marine environment and prevent damage to ships and cargo, and also injury to persons. (International Maritime Organization, 2016f)

The code contains recommendations for substances covered by the code in terms of; operational procedures, markings, handling, emergency response actions, segregation of incompatible substances, stowage and handling of the cargo. (Transportstyrelsen, 2016d)

8.3.2 Load Lines 1966 protocol 1988

The convention sets minimum requirements on vessels' stability in intact condition and in damage conditions to assure the safety of the vessel. Other aspects taken in consideration by the convention is different oceans and seasons of the year, water tightness and weather tightness of openings in the hull, and also stress on the vessel's hull. With these factors weighted in, every vessel is assigned a minimum required freeboard, which consequently restricts the draught of the vessel in different condition and thereby give the vessel its load lines. These load lines have to be marked on the hull at amidships on both sides of the vessel, complemented with the vessels deck line. (International Maritime Organization, 2016g)

8.3.3 MARPOL 1973 Protocol 1978 and 1997

Regulations and requirements for prevention of pollution from vessels are stipulated in the International Convention for the Prevention of Pollution from Ships, MARPOL. It was adopted in 1973 and was updated through a protocol in 1978 before entering into force by 1983. The scope of the convention covers both accidental and operational pollution. Pollution substances covered includes; oil, noxious liquid substances, harmful substances, sewage, garbage and air pollutants. (International Maritime Organization, 2016h)

8.3.4 TONNAGE 1969

Calculation methods for Gross tonnage and Net tonnage are covered in the convention. The Gross tonnage of a vessel regulates the manning requirements, applicable safety requirements and fees for registration of the vessel. Port fees are based on both Net tonnage and Gross tonnage. (International Maritime Organization, 2016i)

8.3.5 AFS 2001

Fouling on hulls has always been an issue in the shipping industry, different substances and paints have been used throughout the times to combat the fouling and decreased the drag it creates. After development of chemical compounds, as tributyltin, TBT with unwanted side-effects on the marine environment was the International Convention on the Control of Harmful Anti-Fouling Systems on Ships adopted in 2001, and entered into force in 2008. The main objective of the convention is to prohibit the usage of harmful compounds in the anti-fouling paint used for hulls. Contracting states of the convention have to ensure that vessels; flying their flags, entering their; ports, off-shore terminals or shipyards, and operating under their authority are in compliance with the convention by restricting and prohibiting the usage of harmful anti-fouling systems. Compound and systems affected by the convention and therefore prohibited are listed in an annex of the convention. (International Maritime Organization, 2016j)

8.3.6 COLREG 1972

The current convention for prevention of collisions at sea entered into force in 1977. The convention is constructed in five sections combined with four technical requirement annexes. All vessels navigating on the high seas and connecting waters are subject to the convention. Included in the convention is 38 rules covering subjects as;

- Application and responsibilities
- Steering and Sailing
- Lights and shapes
- Sound and light signals
- Exemptions

(International Maritime Organization, 2016k)

8.3.7 ILO convention number 147 Merchant Shipping (Minimum Standards) Convention 1976

In response to substandard vessels flying a flag of convenience was the convention adopted in 1976 and entered into force by 1981 (International Labour Organization, 2012), to improve the conditions for employees on merchant vessels. It provides provision for contracting Port States to perform Port State Controls to protect the safety and health of crewmembers on merchant vessels (United States Coast Guard, 1996).

The convention acts as an umbrella convention and includes requirements to implement national laws to fulfil fifteen other conventions which includes standards and requirements on; safety, living arrangement, social security and shipboard conditions among other subjects connected to health, safety and social security of crewmembers. (United States Coast Guard, 1996)

8.3.8 CLC 1969/1992

In the aftermath of at the time, the largest oil spill from the tanker *Torrey Canyon* was the work on the Civil Liability Convention for oil pollution started (Xu, 2009). With the aim to assure that persons affected by damage from oil pollution from oil-carrying vessels would be compensated (International Maritime Organization, 2016l).

The convention entered into force 1975 and was updated and replaced by the 1992 protocol. Since 1998 have the contracting states of the 1992 protocol fully replaced the 1969 convention with the updated 1992 protocol. Some states have not ratified the 1992 protocol and are therefore still contracting parties to the 1969 convention. (International Maritime Organization, 2016l)

Pollution damage covered by the convention is limited to damages caused by spillage or discharge of persistent oils carried in bulk as cargo by a vessel. Under the 1969 convention is the area scope of the compensation limited to the territorial sea and territory of a contracting state. In the 1992 protocol is the area scope extended and covers the Exclusive Economic Zone as well. (International Maritime Organization, 2016l)

The liability for the damages and compensation rest on the ship owner of the causing vessel under the convention. The basis for the liability is strict, meaning that the ship owner has the right to limit the liability through exceptions, with the burden of proof for exceptions and limitation of liability resting on the ship owner. The amount of compensation the ship owner is liable for is limited under the convention. The ship owner is required to hold insurance for the compensation or financial security. (International Maritime Organization, 2016l)

8.3.9 BUNKER 2001

Based on the International Convention on Civil Liability for Oil Pollution Damage 1969 is the aim of the BUNKER convention to assure compensation for persons affected by pollution damage caused by oil spills from vessels bunker oil. The convention entered into force in 2008 and require ship owners to hold insurance for the liability under the convention. The convention is applicable for the Exclusive Economic Zone, Territorial sea and territory of a contracting state. (International Maritime Organization, 2016m)

8.3.10 MLC 2006

The Primary purposes of the convention are to secure decent working condition for seafarers and protect economic interest by addressing substandard employments and thereby strive for fair competition in the maritime industry. The convention entered into force in mid 2013 and is enforced by and in states which have ratified the convention. It covers the entire crew on board vessels, meaning the entire crew of for example cruise vessels falls under the requirements of the convention. Aspects covered in the convention includes; wages, employment contracts, accommodation, health and safety and working hours among other. (International Labour Organization, 2016)