Points for consideration

- Primary responsibility for ensuring vessel compliance with IMO conventions lies with the flag State & owner/operator
- Port State Control provides a "safety net" via spot checks on quality assurance standards
- UNCLOS provides many rights to States (Flag, Port, Coastal) (but also responsibilities)
Responsibilities of Flag States
Article 217

- States shall ensure its vessels comply with international rules and standards
- States must take measures to ensure its vessels are prohibited from sailing if not in compliance
- States must ensure its ships carry appropriate certification
- States shall ensure its vessels are regularly inspected and surveyed

Responsibilities of Flag States
Article 217

- States shall undertake an investigation/proceedings for alleged violations, irrespective of location
- States may request assistance of other States with the investigation of a violation
- States shall make information available to all States
- States shall apply penalties which are adequate in severity to discourage violations

How are we doing?

Self-Assessment of Flag State Performance (Res. A.912(22))

Legal framework
Enforcement
Recognized Organizations (RO Code, Res.MSC.349(92)/MEPC.237(65))
Incident investigation
Performance indicators
Performance Indicators

- Numbers of Reportable accidents/incidents
- Personal injuries >3 days
- Lives lost
- Ships lost
- Pollution incidents *
- Port State control information *
- Communication requirements compliance *
- Actions taken against ships *

Criteria and Performance Indicators
MSC Circular 954/MEPC Circular 373

IMO Audit Scheme

- VIMSAS (voluntary)
- First audits 2006
- Auditing scheme now to be made mandatory
- Annexes I, II, III, IV and V – Mandatory use of the III Code MEPC.246(66) [1/1/16]
- Res. A.1070(28) IMO INSTRUMENTS IMPLEMENTATION CODE
- Res. A.1067(28) FRAMEWORK AND PROCEDURES FOR THE IMO MEMBER STATE AUDIT SCHEME
- Res. A.1068(28) TRANSITION FROM THE VOLUNTARY IMO MEMBER STATE AUDIT SCHEME TO THE IMO MEMBER STATE AUDIT SCHEME

Rights and Responsibilities of Port States

- Port State control not specifically sanctioned in UNCLOS other than sovereignty over internal waters and marine environment enforcement provisions in PART XII
- Specific port State jurisdiction is given application in a number of IMO and ILO Conventions.
Rights and Responsibilities of Port States

- IMO Conventions giving rights to undertake port State control:
  - MARPOL, Articles 5 & 6
  - SOLAS
  - STCW
  - COLREGS
  - Load Lines
  - Tonnage Measurement
  - Intervention Convention

- Use of the "no more favourable treatment", Article 5 (4)

Restrictions on PSC

- Conventions specify the method of inspection
  - Principles – Article 5; Operational aspects - Annexes

- IMO guidance provided in "Procedures for port State control 2011" (Resolution A.1052 (27))

- Generally limited to verifying the validity of certificates

- To conduct a more detailed inspection of the vessel there must be 'clear grounds' for believing the condition of the vessel does not substantially correspond with its certificates (+ Master to be advised)

- If deficiencies found that render the vessel un-seaworthy the vessel may be detained until deficiencies corrected

Restrictions on PSC

- Surveyors when exercising "control" should not unduly detain the vessel

- May be liable for compensation for any damage suffered

- Port State must be party to the relevant Convention to carry out an inspection

- If a ship is detained Flag State must be notified
**Marine Pollution**

**ENFORCEMENT BY PORT STATES**

(UNCLOS Article 218)

- Port State may undertake investigations
- No proceedings may be undertaken unless a violation has caused or is likely to cause pollution in the waters of the State
- Records of investigations to be transmitted on request of Flag State.

**Marine Pollution**

**SEAWORTHINESS OF VESSELS**

(Article 219)

- When State has ascertained a vessel is in violation of international rules and standards relating to seaworthiness and threatens damage to the marine environment:
  - It shall take administrative measures to prevent the vessel from sailing
  - It may permit the vessel to sail to the nearest repair port
  - Upon removal of cause, vessel is free to proceed.

**MARPOL typical concern areas**

- Oil and oily mixtures from machinery spaces
- Loading, unloading and cleaning procedures for cargo spaces of tankers
- Sewage controls
- Garbage controls
- Shipboard Marine Pollution Emergency Plan
**PSC – TYPICAL ISSUES**

Some common causes for detention are:

- Oily water separating equipment not working
- 15 ppm alarm not working
- Oil Record Book incomplete
- Pumping & Piping arrangements
- Bilge Tank
- Crew unfamiliar with equipment
- Sludge Tank & Incinerator

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**Regional Control**

Recognized at IMO that concerted efforts can best be made at a regional level:

- **Improved harmonization**
- **Global co-ordination of PSC functions**

⇒ **Establishment of regional PSC regimes**

Promoted by resolution [A682(17)]
Regional Control

- Common issues affecting PSC regimes
  - integrity of ship inspection
  - redundancy of multiple inspections
  - costs needed for quality and number of inspections
  - lack of PSCOs
  - reaching target inspection rate (if established regionally)
  - performance of MOU member countries as flag States
  - harmonization on the conduct of PSC inspections

Environmental Certificates

All certificates carried on board must be originals!

- International Oil Pollution Prevention Certificate
- International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (NLS)
- International Certificate of Fitness for the Carriage of Dangerous chemicals in Bulk (CoF)
- International Sewage Pollution Prevention Certificate
Ship’s Documents

Oil Record Book
Records of oil discharge and control system
Enhanced survey report (CAS statement of compliance)
NLS cargo record book
NLS Procedures and Arrangements Manual (P&A Manual)
Shipboard Marine pollution emergency plan
Garbage Record Book
Garbage Management Plan
and others!

List of Certificates and Documents Required to be Carried on Board Ships, 2013

FAL.2/Circ.127
MEPC.1/Circ.817
MSC.1/Circ.1462

Detection of Violations

Violations may be detected in various ways:

- routine and enhanced Port State Control inspections
- analysis of ship records
- satellite remote sensing and aerial surveillance
- sampling and fingerprint analysis
- marine casualty investigations
- whistleblower allegations
- reports from public and referrals from countries.
Evidence Needed

Pollutant

- Photographs/video
- Statements from witnesses; description of pollutant
- Spill sample from water, garbage item
- Expert opinions - oil in water
- Environmental harm assessment

Evidence Needed

Shipboard Inspection

- Documentation:
  - Oil/cargo/ garbage record books
  - Deck log & charts
  - Reception facility receipts
  - Pumping and piping diagrams
  - Engineer notebooks
  - Tank sounding records
  - Master/crew identification & statements

Evidence Needed

- Laboratory analysis of oil/chemical samples
  - identify or eliminate suspect ships, environmental harm

- Technical expert opinion on how spill could have occurred

- Physical interference
  - Equipment tampering, bypass hoses, equipment not functional