



ABUJA MoU: AN AFRICAN REGIONAL INSTRUMENT FOR PORT STATE CONTROL



Abdennaji LAAMRICH
ATLAFCO Secretariat
Rabat 12-13 March 2018





DEFINITION OF MoU



- ❑ A memorandum of understanding (MoU) is a **document** describing a **bilateral** or **multilateral** agreement between parties.
- ❑ Expresses a convergence of will between the parties, indicating an intended **common line of action**.
- ❑ Often used in cases where parties either do **not imply a legal commitment** or in situations where **the parties cannot create a legally enforceable agreement**.
- ❑ More formal alternative to a **gentlemen's agreement**





WHAT IS PSC?



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





HISTORICAL OUTLOOK OF MoU ON PORT STATE CONTROL



-1-

- ❑ The *Amoco Cadiz* incident caused a **strong political and public demand in Europe** for much more stringent regulations with regard to the safety of shipping.
- ❑ Following these developments, the ministers responsible for maritime safety of 13 European countries, together with the representatives of the **Commission of the European Communities, IMO and the International Labour Organization (ILO)** met in Paris in December 1980.





HISTORICAL OUTLOOK OF MoU ON PORT STATE CONTROL



-2-

- ❑ They agreed that the elimination of substandard shipping would be best achieved by **co-ordination of port states and based on the provisions of a number of widely accepted international maritime conventions**, the so called **relevant instruments**
- ❑ 2nd ministerial conference, again in Paris, in January 1982, the present Paris MOU on Port State Control was adopted and signed by the maritime authorities of 14 states.
- ❑ The Paris MOU has been in operation since **July 1982**
- ❑ For the first time, **a regular and systematic control of ships was exercised by a regional group of port states** which are parties to the relevant Conventions
- ❑ The Paris MOU is the model upon which other regions of the world base their agreements on port state control

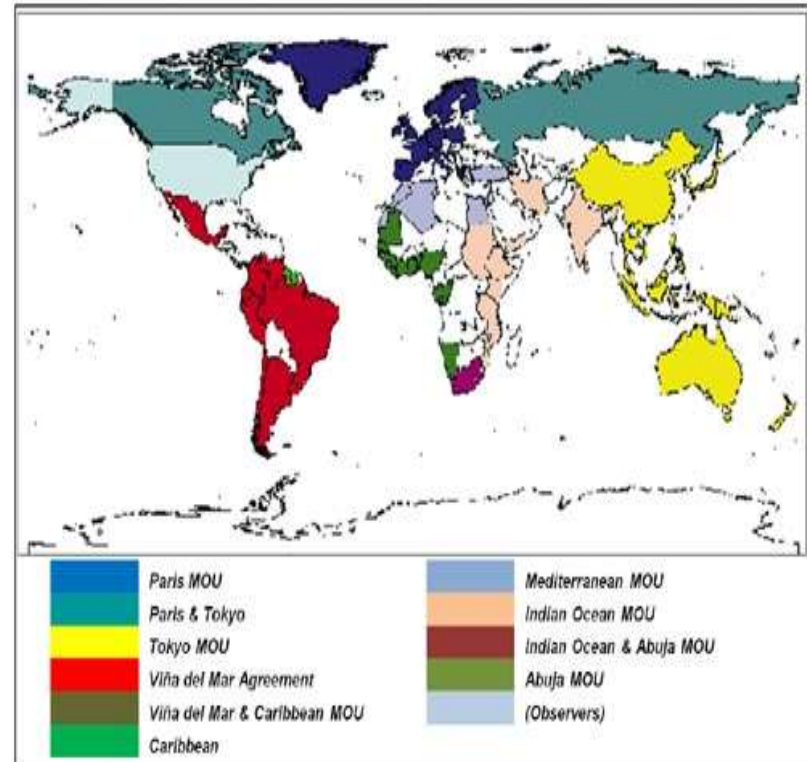




MoUs AROUND THE WORLD



- ❑ In order to carry out PSC effectively, a recommendation concerning regional co-operation in the control of ships and discharges was **adopted as a resolution by the IMO**
- ❑ **In July 1982**, fourteen European countries signed the **Paris Memorandum of Understanding on Port State Control (Paris MoU)**
- ❑ Port states have grouped together under various regional memorandums of understanding on port state control to improve the efficiency and effectiveness of each state's port enforcement.
- ❑ Currently Nine regional MOUs have been established that cover nearly all the regions of the world
 - ❑ **European and North Atlantic region : Paris MoU**
 - ❑ **Asia-Pacific region : Tokyo MOU**
 - ❑ **Latin American region : Viña del Mar**
 - ❑ **Caribbean region : Caribbean MOU**
 - ❑ **Mediterranean region : Mediterranean MOU**
 - ❑ **Indian Ocean region : Indian Ocean MOU**
 - ❑ **Black Sea region : Black Sea MOU**
 - ❑ **West and Central Africa region : Abuja MOU**
 - ❑ **Arab States of the Gulf : Riyadh MOU**





PORT STATE JURISDICTION: THE LEGAL BASIS



-1-

- ❑ Under international law, **port state control complements flag state control.**
- ❑ Port state control is an **important instrument** for certifying that a ship meets the **technical or other requirements contained in international maritime conventions**
- ❑ Requirements for port state control have been delineated **in several key maritime conventions** and evolved over time to become more extensive and inclusive. Relevant conventions include:
 - ❑ **International Convention on Load Lines, Article 21, 1966;**
 - ❑ **International Convention for the Safety of Life at Sea (SOLAS) Chapter I, Regulation 19, 1974;**
 - ❑ **International Convention for the Prevention of Pollution from Ships (MARPOL), Article 5(2), 1973/78;**
 - ❑ **International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, Article X, 1978;**
 - ❑ **the United Nations Law of the Sea Convention, Articles 218,219,226(1)(c) of 1982.**
 - ❑ **ILO Convention No. 147.**





PORT STATE JURISDICTION: THE LEGAL BASIS



-2-

Flag State Jurisdiction	Coastal State Jurisdiction	Port State Jurisdiction
<p>LOSC Articles 211 (2), 217</p> <p>Principal responsibility</p> <ul style="list-style-type: none"> • Design, construction, manning, equipment, operation (MARPOL Standards). <p>Issues</p> <ul style="list-style-type: none"> • Complex because of flag States of convenience • Defining flag States (nominal jurisdiction) • While being primary enforcers, often the weakest ones because these are often States without the resources, expertise or political will. Thus the burden of responsibility shifted onto the coastal/port State 	<p>LOSC Articles 211(4), 220</p> <p>Complements the flag State responsibility</p> <ul style="list-style-type: none"> • Greater responsibility, especially when closer to the land boundary or territorial sea • 200 nm EEZ enlarged the spatial scope of coastal State jurisdiction (Art 211(5),(6)) 	<p>LOSC Articles 211, 218</p> <p>When a vessel is within a port or offshore terminal of a State</p> <ul style="list-style-type: none"> • Enforcement action even with respect to violations committed in the high seas • Under Article 218, port State would assume the role of an organ of the international community in the protection of the marine environment and safety at sea



THE INVOLVEMENT OF PORT STATE CONTROL



- ❑ Port State Control consists of conducting inspections of various aspects of a ship once it has arrived in port, including:
 - ❑ safety of life and property onboard the ship
 - ❑ prevention of pollution by the ship
 - ❑ Seafarers living and working conditions onboard the ship

- ❑ It is a means of enforcing compliance in cases where the owner and flag State have failed in their responsibility to implement or ensure compliance

- ❑ 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.

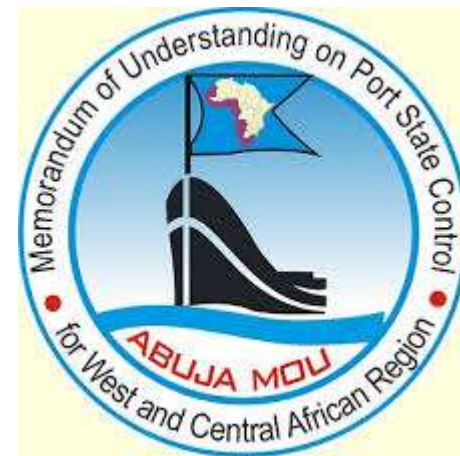




WEST AND CENTRAL AFRICA REGION (ABUJA MoU)

<http://www.abujamou.org/index.php>

- ❑ The Memorandum of Understanding on **Port State Control for West and Central African Region** generally referred to as Abuja MoU is one of the 9 Regional MoUs and 1 national MoU established pursuant to **IMO Resolution A.682 (17) of 1991**
- ❑ The Organization operates under a **Cooperative Agreement with the IMO.**
- ❑ Abuja MoU was established **on 22 October 1999 as an inter-governmental organization** comprising of the Maritime Administrations of countries abutting the Atlantic coast of Africa
- ❑ Its objective is **eradicating substandard shipping activities** thereby ensuring protection of the pristine maritime environment from Pollution and as well the protection of lives of crew on board ships
- ❑ The birth of the Memorandum of Understanding of Abuja **devotes in Africa competences of the Port state** as regards control of the foreign ships



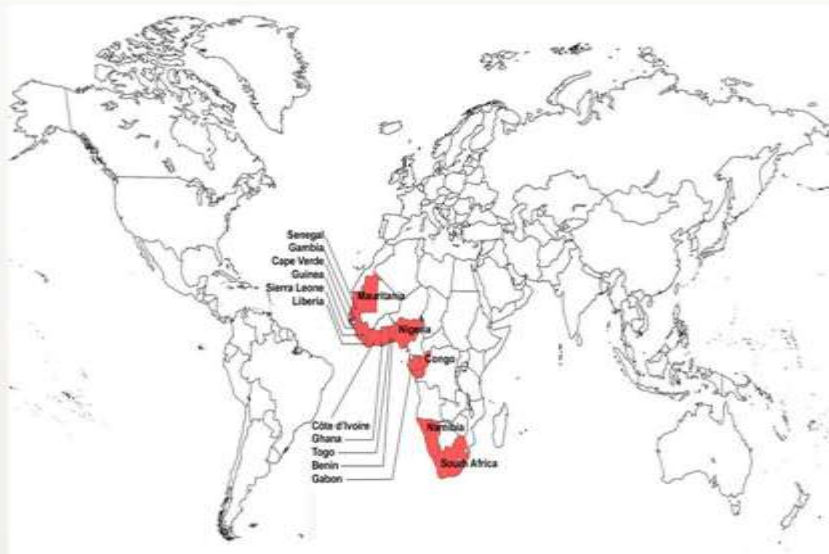


ABUJA MoU MEMBERS



Development of Port State Control

► Abuja MOU



Country	Date of Acceptance of the MoU
Angola	24.01.2012
Benin	29.06.2007
Cameroun	not yet accepted the Memorandum
Cabo Verde	signed but not yet accepted the Memorandum
Congo	16.11.2001
Côte d'Ivoire	17.12.2010
Democratic Republic of Congo	not yet accepted the Memorandum
Equatorial Guinea	not yet accepted the Memorandum
Gabon	25.09.2009
The Gambia	27.07.2007
Ghana	06.05.2003
Guinea	12.02.2002
Guinea Bissau	not yet accepted the Memorandum
Liberia	signed but not yet accepted the Memorandum
Mauritania	signed but not yet accepted the Memorandum
Namibia	signed but not yet accepted the Memorandum
Nigeria	19.08.2002
Sao Tome and Principe	16.08.2012
Sierra Leone	25.10.2001
Senegal	21.06.2001
South Africa	signed but not yet accepted the Memorandum
Togo	12.09.2007



THE ABUJA MoU INFORMATION SYSTEM (AMIS)



- ❑ Realizing how crucial information exchange is, the Abuja MoU Committee approved the development of the **Abuja MoU Information System (AMIS)**
- ❑ AMIS is a **web-based information system designed for reporting and storage** of Port State Control inspection reports
- ❑ The **AMIS** in the **Republic of Congo** is established for the purpose of exchanging information on port State inspections, in order to:
 - ❑ 1. **make available to Authorities information** on inspections of ships in other regional ports to assist them in their selection of foreign flag ships **to be inspected and their exercise of port State control on selected ships**; and
 - ❑ 2. provide **effective information exchange facilities regarding port State control in the region.**
- ❑ The **annual PSC inspection data** are generated automatically from the central database of Abuja MoU Information system (AMIS)





THE ABUJA MoU INSPECTIONS



- ❑ The region recorded 18.14% decrease in inspections
 - ❑ from 2,348 in 2015 where 14 Administrations submitted reports
 - ❑ to 1,922 in 2016, with 15 Administrations reporting.
- ❑ In 2016, 153 of the inspections conducted generated 64
- ❑ The deficiencies are as a result of anomalies from:
 - ❑ Ship's certificates and documents –12.15%;
 - ❑ SOLAS Convention – 37.84%;
 - ❑ MARPOL Convention – 5.15%;
 - ❑ STCW Convention – 3.12%;
 - ❑ Load Line Convention – 2.02%;
 - ❑ ILO (MLC,2006) – 9.66%.
- ❑ The positive effect of the national, regional and foreign trainings attended by port State control officers of the Abuja MoU is evidenced in the greater ability and confidence to identify deficiencies and detainable deficiencies.
- ❑ The data showed an increase in number of deficiencies to 642 (18%) and detentions to 24 (167%) despite reduced inspections in 2016





CONCENTRATED INSPECTION CAMPAIGN (CIC)



An inspection campaign has been held for three months, commencing from **1 September 2017 and ending 30 November 2017**

- ❑ **Port State Control Officers (PSCOs)** use a list of **12 questions** to assure that:
 - ❑ navigation equipment carried onboard complies with the relevant statutory certificates,
 - ❑ the master and navigation officers are qualified and familiar with operation of bridge equipment, especially Electronic Charts Display Information System (ECDIS)
 - ❑ navigation equipment is properly maintained and functioning.
- ❑ If **deficiencies are found**, actions by the port State may vary **from**
 - ❑ recording a deficiency and instructing the master to rectify it within a certain period of time
 - ❑ to detaining the ship until the serious deficiencies have been rectified.
- ❑ In the **case of detention**, the data will be **published in the non-performing ships section of Abuja MoU website.**
- ❑ The results of the campaign will be analyzed and findings will be presented to **the Abuja MoU Port State Control Committee for submission to the IMO**

- ❑ **A ship is only be subject to one inspection in the region under this CIC during the period of the campaign**





MoU/AGREEMENT SECRETARIES AND DATABASE MANAGERS AND MEMBER STATES



- ❑ In a workshop that took place from 24-26 October 2017, at the IMO headquarters in London, regarding the **port State control (PSC) MoU/Agreement Secretaries** and Database Managers and **Member States**,
- ❑ The participants shared experiences, highlighted new projects and approved a wide range of recommendations, which are aimed to develop
 - ❑ **Collaboration,**
 - ❑ **Harmonization**
 - ❑ **Information sharing**
- ❑ The workshop emphasized the growing number of PSC regimes **implementing targeted inspections mechanisms, as well as incentive schemes**, so that **ships complying with international standards are subject to fewer inspections**, while substandard ships are targeted more.
- ❑ **The recommendations made by the meeting can be summarized as following:**
 - ❑ PSC regimes agreed to explore the development of **statistical compatibility of their systems.**
 - ❑ They also agreed to consider moving away from **“black/grey/white lists”.**
 - ❑ PSC regimes agreed to convey to their regional governing bodies the **recommended use of the results of interregional information exchanges** in their internal procedures.



THE ABUJA MoU AND THE FISHERIES SECTOR IN ATLAFCO



 To Adapt

 To extend

 To take inspiration from



CONCLUSION

- ✓ Effective regional agreements, including harmonized inspection and detention procedures
- ✓ Internationally approved qualifications of inspectors and transparency through increased information within regions and inter-regionally



Will play an essential role for both flag and Port State responsibilities



THANKS FOR YOUR ATTENTION



**AVOID PROBLEMS – RUN A
SAFE AND SECURE SHIP AND
BE HONEST WITH PORT STATE
CONTROL OFFICERS**

