

## PORT STATE CONTROL GOALS, IMPLEMENTATION AND ACHIEVEMENTS

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### ABSTRACT

To impede substandard ships from cruising the seas and oceans of the globe, there is a safety net acting as filters or a gates.

The first gate is the flag state which is considered the main gate to impede substandard ships from passing but those ships which endanger the safety of lives at sea and the marine environment found their way through the flag state gate via flag of convenience countries. The second gate is the classification societies gate which is of a great importance where there are more than 100 in the world only 12 of them are members in the International Association of Classification Societies (IACS). Flag states approve and delegate classification societies and Recognized Organizations (ROs) to carry out part of the role of the flag state under their supervision and responsibility. The third gate is a combination of ship owners, managing companies, ships masters and crew which also failed to impede substandard ships. The fourth gate is guarded by insurance companies and P & I clubs. The fifth gate is guarded by charterers, shippers and receivers. All the previous five gates failed to impede the passage of substandard ships that is why there was a need for a strong gate with overriding authority to prevent substandard ships from sailing, but that gate could not be globally but could be regional basis to be able to trace the ships through data bases. The new gate is guarded by Port State Control ( PSC ) which has become of ever increasing importance in the field of marine safety and marine pollution prevention and thus in the work of the International Maritime Organization (IMO) over the past few years.

This paper reviews the role of the PSC, its goals and achievements over the years since its implementation till now and trying to find the answer of whether it achieved its goals or not by reviewing Paris MOU reports in 2013 and 2014.

Finally discussing the reasons for PSC not achieving its goals and providing some recommendations which can improve the PSC performance.

**KEYWORDS:** Substandard Ships, Deficiencies, Port State Control, Memorandum of Understanding

### 1. INTRODUCTION

During the second half of the last century, world shipping underwent a tremendous growth in terms of gross tonnage as well as in the number of merchant ships. The building of very large and ultra large oil tankers, bulk carriers, huge container ships and giant passenger ships created a real threat to safety of life at sea and damage to the marine environment. This development was “The straw that broke the camel’s back”.

In addition, the world fleet had been ageing because owners were no longer renewing their ships as often as they were supposed and used to do. Traditional shipping nations, which generally attached great importance to safety and environmental protection, had given way to “new shipping nations” with little if at all any shipping experience.

Furthermore, and, as opposed to the fact that ship sizes increased, the world witnessed reductions in manning levels. Increased technology introduced in the shipping industry played a significant role in this tendency. Owing to increased multi nationality of crew on board many vessels, questions were raised as regards the effectiveness and efficiency of communication not only onboard such ships, but also with other communities involved in shipping (Ahmedou 2000).

At the old days, implementation and compliance with international maritime safety and pollution prevention regulations were the responsibility of national administrations acting in their capacity as flag states. Although flag states administrations were assisted by classification societies, in performing these tasks, the states took full responsibility for the level of compliance by ships in their registers. Registration of ships was primarily based on the concept of a “genuine link” between the administration of the country of registry and the ship owner. As a general rule, ships were manned with competent crews, nationals of the country of registry. The combined efforts of all involved, guaranteed compliance with the regulations. All of these values have been declined, and today it is common to find ships:

- Registered in one country,
- Manned by a multinational crew, often provided by a manning agent in some remote corner of the world,
- Operated by a management company established in another country,
- While an international banking consortium most probably is the beneficial owner.

In the late 1970s the awareness of the erosion in compliance with generally accepted standards in merchant shipping increased in Europe. As a result, port officials started verifying whether foreign merchant ships calling at their ports complied with generally agreed international standards of maritime safety and pollution prevention. This initiative was emulated regionally and this led to the establishment of the first Memorandum of Understanding on Port State Control (MOU). Similar structures developed around the world resulting in having more MOUs.

## 2. THE IMO AND PSC

PSC is the inspection of foreign ships in national ports to verify that the condition of the ship and its equipment comply with the requirements of international regulations and that the ship is manned and operated in compliance with these rules.

Many of IMO's most important technical conventions contain provisions for ships to be inspected when they visit foreign ports to ensure that they meet IMO requirements.

These inspections were originally intended to be a back up to flag State implementation, but experience has shown that they can be extremely effective. The Organization adopted resolution A 682(17) on Regional co-operation in the control of ships and discharges promoting the conclusion of regional agreements. A ship going to a port in one country will normally visit other countries in the region and it can, therefore, be more efficient if inspections can be closely coordinated in order to focus on substandard ships and to avoid multiple inspections.

This ensures that as many ships as possible are inspected but at the same time prevents ships being delayed by unnecessary inspections. The primary responsibility for ships' standards rests with the flag State - but port State control provides a "safety net" to catch substandard ships.

Nine regional agreements on port State control - Memoranda of Understanding or MoUs - have been signed: Europe and the north Atlantic (Paris MoU); Asia and the Pacific (Tokyo MoU); Latin America (Acuerdo de Viña del Mar); Caribbean (Caribbean MoU); West and Central Africa (Abuja MoU); the Black Sea region (Black Sea MoU); the Mediterranean (Mediterranean MoU); the Indian Ocean (Indian Ocean MoU); and the Riyadh MoU. The United States Coast Guard maintains the tenth PSC regime.

IMO hosted six Workshops for PSC MoU/Agreement Secretaries and Database Managers. The Workshops were funded by the IMO Technical Cooperation Fund and aimed to provide support to regional port State control regimes by establishing a platform for cooperation and also providing a forum for the people involved to meet and exchange ideas and experiences. They also aimed to encourage harmonization and coordination of PSC activities and the development of practical recommendations which can be forwarded to IMO for further examination by the Organization's relevant Committees and Sub-Committees.

## 2.1 Implementation, Control and Coordination

IMO was established to adopt legislation and Governments are responsible for implementing them. When a Government accepts an IMO Convention it agrees to make it parts of its own national law and to enforce it just like any other law. The problem is that some countries lack the expertise, experience and resources necessary to do this properly.

There is a demonstrated statistical evidence, when analysing the casualty rates or the port State control detentions of the ships in relation with their respective flags, that a highly significant difference exists between the performances of States with a substantial and organized maritime safety Administration, manned with experienced ship surveyors, and other ones that are not in a position to properly fulfil the different tasks and responsibilities of the flag State in relation with safety certification of ships.

IMO is concerned about this problem and in 1992 set up a special Sub-Committee on Flag State Implementation (FSI) to improve the performance of Governments. The FSI Sub-Committee was renamed the Sub-Committee on Implementation of IMO Instruments (III) in 2013.

The III Sub-Committee works under the following terms of reference:

- Under the direct instructions of the Maritime Safety Committee and the Marine Environment Protection Committee, the Sub-Committee on Implementation of IMO Instruments (III), in addressing the effective and consistent global implementation and enforcement of IMO instruments concerning maritime safety and security and the protection of the marine environment, will consider technical and operational matters related to the following subjects, including the development of any necessary amendments to relevant conventions and other mandatory and non-mandatory instruments, as well as the preparation of new mandatory and non-mandatory instruments, guidelines and recommendations, for consideration by the Committees, as appropriate:
  - Comprehensive review of the rights and obligations of States emanating from the IMO treaty instrument.
  - Assessment, monitoring and review of the current level of implementation of IMO instruments by States in their capacity as flag, port and coastal States and countries training and certifying officers

and crews, with a view to identifying areas where States may have difficulties in fully implementing them.

- Identification of the reasons for the difficulties in implementing provisions of relevant IMO instruments, taking into account any relevant information collected through, inter alia, the assessment of performance, the investigation of marine casualties and incidents and the port State control (PSC) data, while paying particular attention to the perceived difficulties faced by developing countries.
- Consideration of proposals to assist States in implementing and complying with IMO instruments by the development of appropriate mandatory and non-mandatory instruments, guidelines and recommendations for the consideration by the Committees, as appropriate.
- Analyses of investigations reports into marine casualties and incidents and maintaining an efficient and comprehensive knowledge-based mechanism to support the identification of trends and the IMO rule-making process.
- Review of IMO standards on maritime safety and security and the protection of the marine environment, to maintain an updated and harmonized guidance on survey and certification related requirements.
- Promotion of global harmonization of PSC activities.
- The conventions and other mandatory instruments (as may be amended from time to time) referred to above include, but are not limited to:
  - 1974 SOLAS Convention (chapters I, IX, XI-1 and appendix and other relevant chapters, as appropriate) and the 1978 and 1988 Protocols relating thereto.
  - MARPOL, BWM and AFS Conventions and other related environmental instruments, as appropriate.
  - International Safety Management (ISM) Code.
  - Code for recognized organizations (RO Code).
  - IMO Instruments Implementation Code (III Code).
  - Casualty Investigation Code, 2008.
- The non-mandatory instruments referred to in paragraph 1, which the Sub-Committee may be called upon to review, include, but are not limited to:
  - HSSC Guidelines;
  - Procedures for Port State Control; and
  - Fair treatment of seafarers, non-convention ship-related matter, etc.

- Any other relevant technical and operational issues referred to it by the Committees or other technical bodies of the Organization.

**2.2 Port State Control**

Another way of raising standards is through port State control. Many IMO conventions contain provisions for Governments to inspect foreign ships that visit their ports to ensure that they meet IMO standards. If they do not they can be detained until repairs are carried out.

These inspections were originally intended to be a back up to flag State implementation, but experience has shown that they can be extremely effective. The Organization adopted resolution A 682(17) on Regional co-operation in the control of ships and discharges promoting the conclusion of regional agreements.

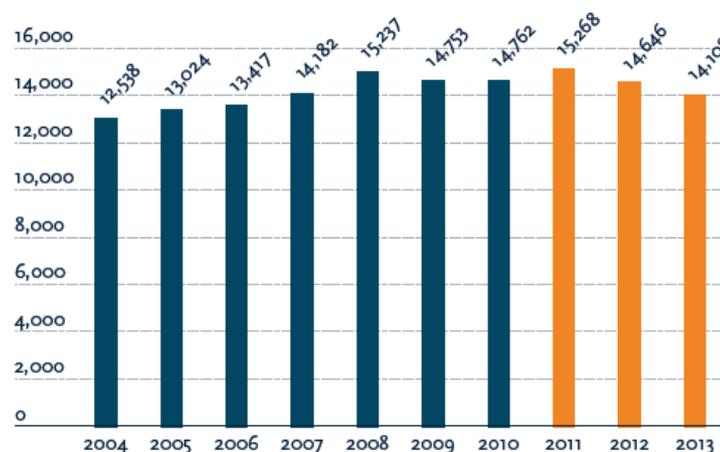
IMO also has an extensive technical co-operation programme which concentrates on improving the ability of developing countries to help themselves. It concentrates on developing human resources through maritime training and similar activities.

**3. APPLICATION OF THE PSC PROCEDURES**

The procedures apply to ships come under the provisions of the International Convention for the Safety of Life at Sea, 1974 as amended (SOLAS 74), the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974 (SOLAS Protocol 1988), the International Convention on Load Lines, 1966 (Load Lines 66), the Protocol of 1988 relating to the International Convention on Load Lines, 1966 (Load Lines Protocol 88), the International Convention for the Prevention of Pollution from ships, 1973 as modified by the Protocol of 1978 relating thereto, as amended (MARPOL 73/78), the International Convention on Standards of Training, Certification and Watch Keeping for Seafarers, 1978, as amended (STCW 78), and the International Convention on Tonnage Measurement of Ships, 1969 (Tonnage 69). All the mentioned conventions will be referred to in all PSC procedures and documents as the applicable conventions.

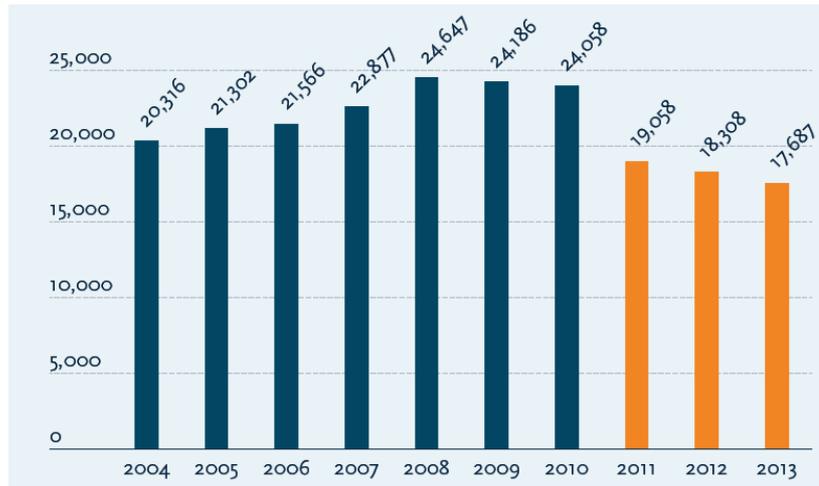
The procedures of the PSC extend their applications to include ships of non-parties or below convention size where those ships shall be given no more favourable treatment. Finally the Maritime Labor Convention (MLC).

**4. SHIPS INSPECTIONS AND DETENTIONS UNDER PARIS MOU IN 2013**



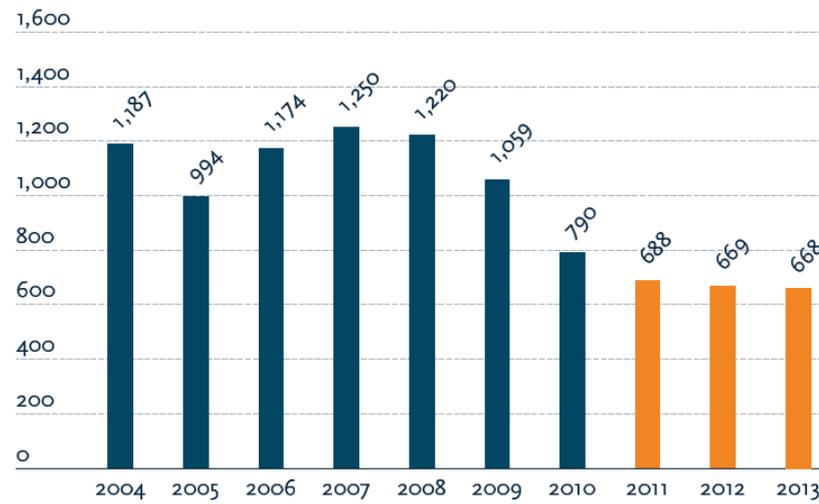
Source: Paris MOU 2013 annual report

Figure 1: Number of Individual Ships Inspected



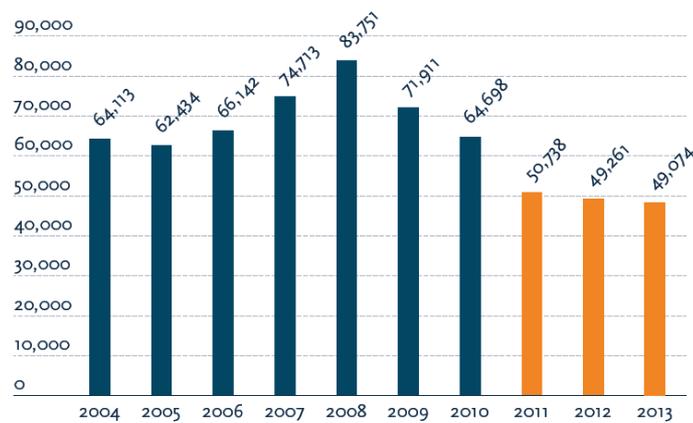
Source: Paris MOU 2013 annual report

Figure 2: Number of Inspections



Source: Paris MOU 2013 annual report

Figure 3: Number of Detentions



Source: Paris MOU 2013 annual report

Figure 4: Number of Deficiencies

A total of 17687 ships were inspected in 2013 under Paris MOU as shown in figure2. The total number of deficiencies recorded was 49074 (Figure 4) showing an increase in the average number of deficiencies per inspection from 2.7 in 2012 to 2.8 in 2013. 668 ships were detained (figure 3) with an increase in the average detention rate from 3.65% in 2012 to 3.78% in 2013 according to the facts and figures in 2013 Paris MOU annual report.

In 2013 the top 5 detention rates were for: general cargo/multipurpose ships at 6.28% (up from 5.99% in 2012); Commercial yachts at 6.00% (not listed in 2012), tugs at 5.88% (up from 3.39% in 2012); refrigerated cargo ships 5.25% (up from 4.23% in 2012) and bulk carriers at 3.55% (up from 2.60% in 2012). The remaining ship types have lower detention rates and they are similar to or lower than the 2012 detention rates.

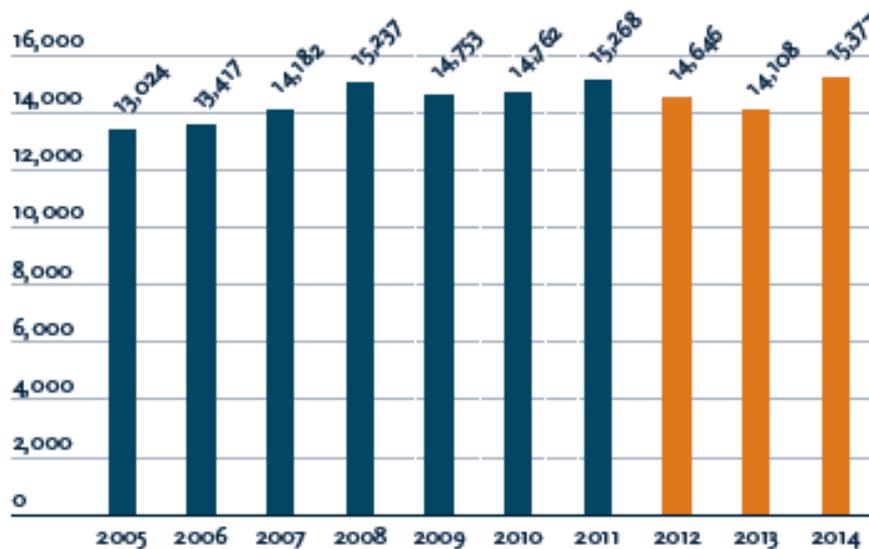
2013 showed the banning of 28 ships in the Paris MOU region, 17 of which for multiple detentions, 9 of which for failure to call at an indicated repair yard and 2ships for jumping detentions. A number of ships remain banned from previous.



Source: Paris MOU 2013 annual report

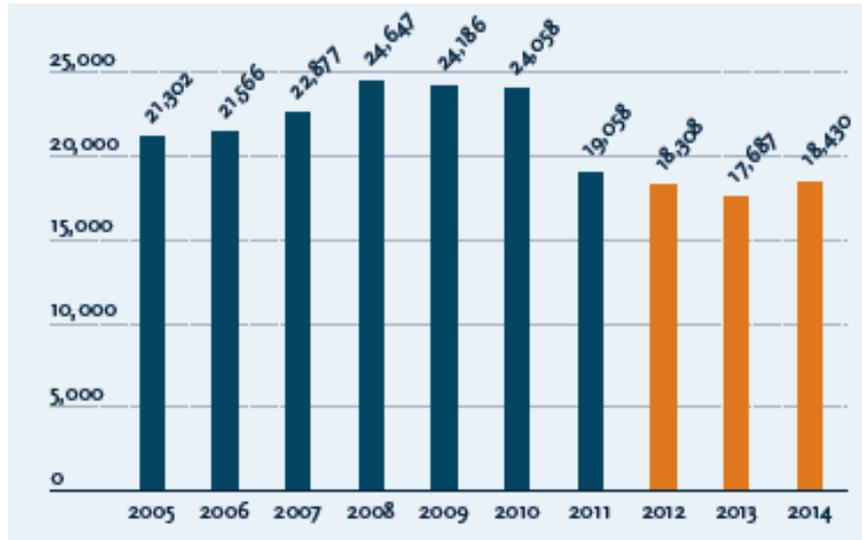
Figure 5: Refusal of Access 2005 – 2013

### 5. SHIPS INSPECTIONS AND DETENTIONS UNDER PARIS MOU IN 2014



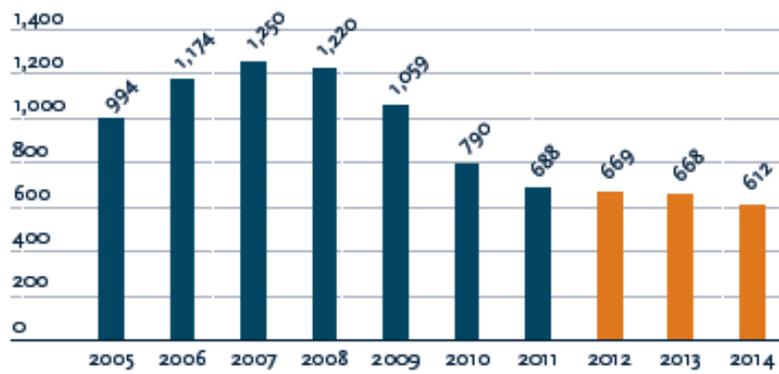
Source: Paris MOU 2014 annual report

Figure 6: Number of Individual Ships Inspected in 2014



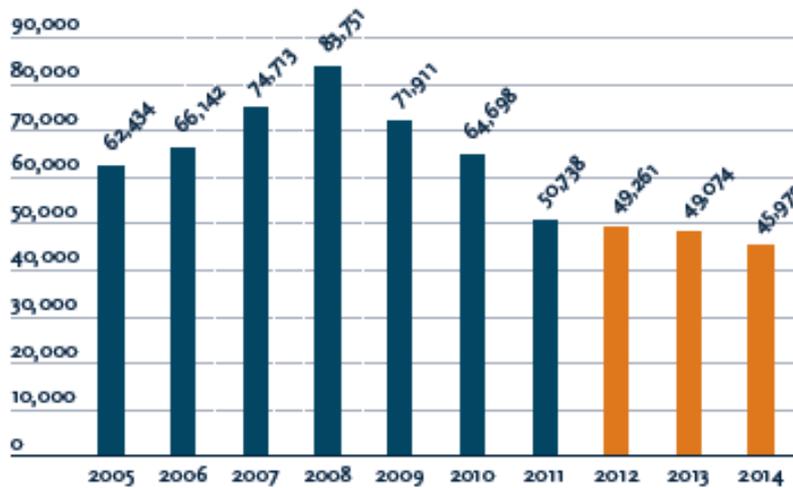
Source: Paris MOU 2014 annual report

Figure 7: Number of Inspections



Source: Paris MOU 2014 annual report

Figure 8: Number of Detentions



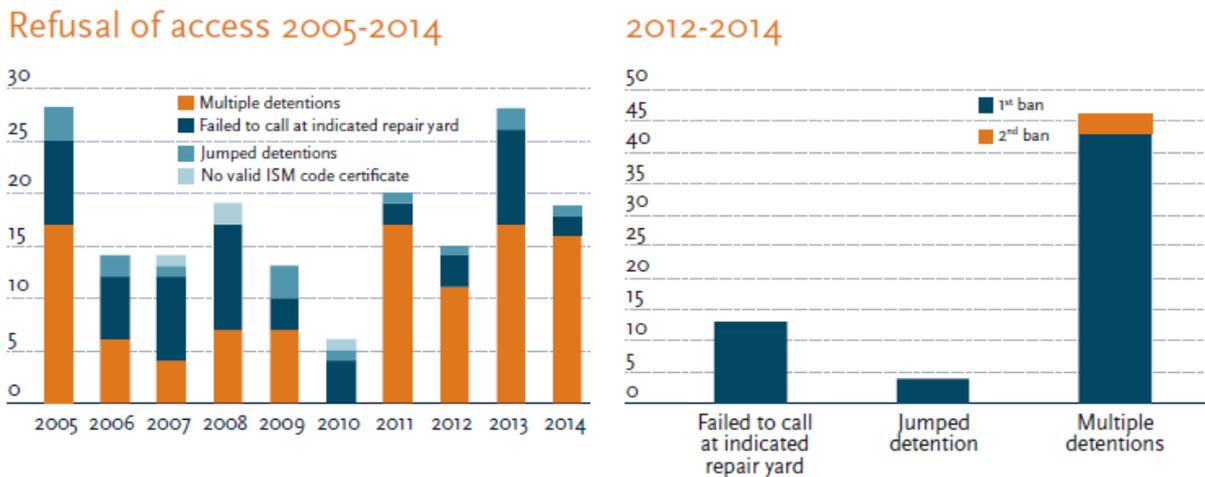
Source: Paris MOU 2013 annual report

Figure 9: Number of Deficiencies in 2014

A total of 18430 ships were inspected in 2014 (figure 7) under Paris MOU. The total number of deficiencies recorded was 45979 (figure9) showing a decrease in the average number of deficiencies per inspection from 2.8 in 2013 to 2.5 in 2014. 612 ships were detained (figure8) with a decrease in the average detention rate from 3.78% in 2013 to 3.32% in 2014 according to the facts and figures in 2014 Paris MOU annual report.

In 2014 the top 5 detention rates were for: tugs at 5.2% (down from 5.88% in 2013), general cargo/multipurpose ships at 5.49% (down from 6.28% in 2013), refrigerated cargo ships at 4.62% (down from 5.25% in 2013), commercial yachts at 3.21% (down from 6.00% in 2013) and bulk carriers at 3.19% (down from 3.55% in 2013). The remaining ship types have lower detention rates and they are similar to or lower than 2013 detention rates. Best performing ship types are combination carriers, heavy load ships and NLS tankers with zero detention rates.

2014 showed the banning of 20 ships in the Paris MOU region, 17 of which for multiple detentions, 2 of which for failure to call at an indicated repair yard and 1 ship for jumping detention.



Source: Paris MOU 2014 annual report

Figure 10: Refusal of Access 2005 – 2014

## 6. CONCLUSIONS AND RECOMMENDATIONS

- Although Paris MOU is the oldest MOU on port state control, member states possess experienced PSC officers and inspectors and all ships calling at ports in the region know very well the standard of inspection they are going to face, there are still substandard ships calling at these ports.
- After more than 30 years of implementing of PSC it failed to impede substandard ships from cruising oceans and seas of the globe.
- Although there is a decrease in the number of ships detained in 2014 than the previous three years which was considered a development in the performance of PSC, the available data so far on 2015 figures is showing an increase.
- There are many reasons causing the low performance of PSC, such as but not limited to,
  - Shortage of repair and supply facilities in many ports, makes PSC Officer to grant them rectification at next port causing some ships failing to call at indicated repair yard.

- Each MOU for PSC is individual system/Data Base, therefore any vessel banned by PARIS MOU for example shall escape in other region.
- The lack of experienced PSCOs In some regions.
- Low salaries in some regions open a gate for bribery. Some points of weakness occurred in the past two years exams, those points should be addressed in the scenarios students carry out in the simulator.

For increasing the efficiency of PSC some steps on states level should be taken starting from linking the databases of all the memorandums on line and making sure that there is a deadline date for filling in the reports of inspections. More cooperation between the MOUs for training of PSCOs, to share experience between inspectors. Cooperation between classification societies and PSC authorities.

Finally investments must be encouraged in ships repair yards in the major trading ports.

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