

Michaela Domijan-
Arneri*

THE ROLE OF PORT STATE CONTROL IN THE CONTEMPORARY SHIPPING ARENA FROM THE PERSPECTIVE OF THE PARIS MEMORANDUM OF UNDERSTANDING

Funkcija lučkog sustava u suvremenom
brodarstvu iz perspektive Pariškog
predugovora o razumjevanju

ISSN 0469-6255
(205-211)

UDK 651.61:629.12
Pregledni članak
Review

Summary

This article discusses the operation and effectiveness of port state control as a system of monitoring the degree of observance of international standards in the global shipping arena. Although it provides a number of criticisms of the current operation of the international port state control system, there is general support for the phenomenon in question.

That support is particularly generated by the development of the Paris Memorandum of Understanding, a regional cooperation system, which exists alongside the international port state regime. The achievement of the Paris Memorandum is rooted in its inspection procedures, powers of enforcement and the vessel conditions which it aims to maintain. Its success is reflected in less substandard ships operating freely on the sea and a rise in the number of states participating in regional port state frameworks.

Sažetak

Ovaj rad obrađuje djelovanje i korisnost međunarodnog lučkog sustava kao sustava koji nadzire stupanj pridržavanja međunarodnih standarda na svjetskoj brodarскоj sceni. Iako su u radu predstavljene brojne kritike sadašnjeg međunarodnog lučkog sustava, potpora za taj fenomen nije isključena.

U ovoj raspravi ta potpora osobito proizlazi iz razvitka Pariškog predugovora o razumjevanju, regionalnog kooperativnog sustava koji istodobno postoji uz međunarodni lučki režim. Postignuća Pariškog predugovora su ukorijenjena u inspeksijskim procedurama, provođenju i brodsko-navigacijskim uvjetima koje Predugovor želi sačuvati. Uspjeh Predugovora se odrazio u manjem broju

slobodno aktivnih brodova nižih standarda i rastućem broju zemalja koje participiraju u regionalnim lučko-sustavnim mrežama.

1. Introduction Uvod

In international law the main responsibility of securing compliance of ships with international standards of prevention of pollution, safety and crew conditions rests with the flag state. The Geneva Convention on the High Seas 1958¹ and the United Nations Convention on the Law of the Sea 1982² impose a duty on the flag state to exercise effective jurisdiction in administrative, social and technical matters over ships flying its flag. Despite the existence of that duty, many flag states, particularly those providing flags of convenience, do not follow it in practice as they are either unwilling or unable to exercise proper control. This has resulted in the development of port state control. Port state control requires the port state to monitor the observance of international standards by flag states through inspection of flag state vessels in its internal waters.

Port state jurisdiction was originally assessed for its more active role in an international arena at the International Maritime Organisation Conference on Maritime Pollution in 1973. The reason behind this is that under customary international law if there is no territorial connection between the activities of a vessel and the port state, there appears to be no rule which provides the port state with jurisdiction over foreign vessels in its internal waters in relation to pollution which emanates from those vessels.³

Although port state control is still closely interlinked with the protection of marine environment its ambit of application today is much wider. For example, functions of the port state authority are now set out in many

¹ Article 5 of the Geneva Convention on the High Seas 1958.

² Article 94 of the UN Convention on the Law of the Sea 1982.

³ Kasoulides, *Port State Control and Jurisdiction*, Dordrecht 1993, p. 110.

* Mihaela Domijan-Arneri, Bachelor of Laws (LLB), Solicitor Institute of Advanced Legal Studies - University of London

international conventions like Article 21 of the 1966 International Convention on Load Lines; Regulation 19 in Chapter 1 of the 1974 International Convention for the Safety of Life at Sea (SOLAS), Article 4 of the 1976 International Labour Organisation (ILO) Convention No. 147 and Article X(1) of the 1978 Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW). It seems however that the relevant provisions of these conventions do not allow for the port state to enforce its authority over contraventions on the high seas or in foreign coastal waters. Port state enforcement regime is thus limiting in the sense that it mostly encompasses the control of vessels and possible rectification of technical and employment-related deficiencies when the vessel is in its internal waters.

The concept of port state control may be relatively clear but what has been depicted thus far is to the exclusion of its many significant components. A comprehensive list of the main characteristics of the contemporary port state enforcement regime has been provided by Kasoulides.⁴ Those are certainly the characteristics that a definition of the phenomenon of port state control could not do without.

The main component is voluntariness which relates to the notion that a vessel on the high seas or even a port state's territorial waters or its Exclusive Economic Zone, cannot be forced by that port state to enter its ports and submit to the proceedings there.

Then, the exercise of port state's power to compel a vessel to remain in its port or rectify a deficiency is limited to its ports or offshore terminals and it excludes the functional internal waters area.

Port state's jurisdiction only becomes effective as a result of the voluntary presence of a vessel in its ports. The role of its enforcement is thereby mainly investigative and only subsidiary adjudicative. The powers of enforcement are limited to discharges, both accidental and intentional, of oil, noxious and hazardous substances as well as sewage and garbage. Those powers are applied at the port state's discretion. Furthermore, the port state enforcement procedure could only be applied in a situation where there is no territorial link to the port state. If there has however been an incident of or there exists a suspicion of a discharge in foreign waters the port state in question may not conduct an investigation unless it has been requested to do so by another UNCLOS party. The coastal state may ask to have such an investigation suspended.

Also, the port state may enforce applicable standards from customary international law or from international

maritime conventions and not resolutions, guidelines and codes that are not already incorporated in customary international law.

The flag state itself may request the investigation into discharge contraventions by its ships in foreign waters or on the high seas. It may also take legal proceedings in its national courts in which case the port state must suspend its own proceedings in accordance with the safeguarding provisions in Article 228 of UNCLOS.

Penalties may be monetary although Article 230(2) of UNCLOS implies that imprisonment is a possible sanction for intentional serious pollution of the territorial sea.

2. So far so good?

Uspjeh postojećeg lučkog sustava?

The global port state regime has been commended for creating a universal system of surveillance and control of prevention and punishment of marine pollution.⁵ The confined scope of implementation and enforcement renders the system more effective and avoids the difficulties related to interference with foreign vessels in the open sea.⁶

There are however a number of limitations and criticisms of the system too.

Firstly, although it would in theory be possible to inspect every ship in detail it would not only be very expensive but the relevant conventions provide that no ship is to be unduly delayed or detained. Otherwise the port state could be penalized. There is a view therefore that in practice such detailed inspection is not an option.⁷

Then, as it was already discussed above, the popular practice of registration allows for avoidance of the genuine link. This in turn is reflected in weak powers of enforcement since the vessels registered under a flag of convenience, for example, rarely enter national ports. Moreover, such flag states may not have the necessary framework and resources to implement and enforce international duties or to penalize violations committed in foreign waters. Open registries are therefore an area into which the port state regime is penetrating very slowly compared to the progress it has been attaining through its application elsewhere.

Then, it may be dangerous and complicated to stop a tanker during its voyage in order to inspect it, especially on busy routes.

⁵ *Ibid.* p.126.

⁶ Douay u Kasoulides, *ibid.* p.126.

⁷ D. Bell, 'Port state control v flag state control: UK government position' Marine Policy, (September 1993), p.367-370 on p.369.

⁴ Kasoulides (1993), *ibid.*, p.125.

Also, rules relating to coastal jurisdiction are ambiguous. Clearer rules should thus be introduced for various jurisdictional zones.

One of the main criticisms of the system however is rooted in the uncertainty of whether port states will exercise effective inspection, punishment and surveillance of contraventions that do not affect their interests. This is amplified by the fact that there is no international body to regulate and to monitor the system.

Controversy is also generated by the question of whether national authorities will conform with the relevant international standards or whether its national legislation, possibly less restrictive, would be applied.

Further, the system could pose difficulties to ship owners and crew by exposing them to too many jurisdictions.

There is also an argument that port state control cannot replace flag state control because port state control is a subsidy to the flag state administration as well as a penalty on the ship owners whose ships fly respectable flags.⁸ Port state control is in other words a subsidy of the ineffective by the effective. Furthermore, port state control could never be a full substitute to the flag state regime without total cooperation by the flag state. The argument can however be counteracted with the fact that many instances of lack of compliance by flag states and inconsistent flag state control at the global level prompted the IMO to establish the Sub-committee on Flag State Implementation which is a sub-committee of both the Maritime Safety Committee and the Marine Environmental Protection Committee.⁹

Finally, there is a notion that port state competence imposed by the relevant international conventions only exists to ensure safety, health and environmental interests. Its function is therefore not to protect the port state's interests in undertaking its search and rescue system. This notion was embodied in the decision of the New Zealand Court of Appeal in the case of *Sellers v Maritime Safety Inspector* in 1998.¹⁰ This may be of a disadvantage to conducting effective port state control since port state authorities may be reluctant to perform certain operations in relation to inspection, for example, without the safeguards which they may find necessary for such operations. Indeed what has been described as the "achilles heel of current international port state

control practice"¹¹ is that maritime authorities may be exposed to actions for wrongful detention if a vessel is detained for a purpose which later proves to be unjustified. In most jurisdictions port state authority actions would be treated as actions of the state and would be subject to usual administrative review procedures. Some countries also have specific appeal procedures in their domestic legislation and there are rights of appeal under regional control frameworks like paragraph 3.13 of the Paris Memorandum of Understanding. Rosas, however, reaches beyond such procedures by proposing that in order to give full effect to port state control all states should enact an indemnification of officials for actions taken in good faith, as Australia and New Zealand have already done.¹²

3. The Paris Memorandum of Understanding (MOU)

Pariški predugovor o razumijevanju

In theory the method of port state control appears to be viable. Yet, in practice, the success of that viability, that is control by port states in checking compliance with international standards, depends on coordination between maritime authorities on a regional basis. It is likely that otherwise owners and charterers would avoid ports where substandard ships are more likely to be inspected and become detained, which would lead to a distortion of competition between ports in the same region.¹³

The Paris Memorandum of Understanding (MOU), which was enforced in 1982, was a pioneering recipe for harmonizing port state control on a regional basis. It requires each maritime authority which is party to it to have an effective system of port state control so that merchant vessels which enter its ports conform to the international conventions on prevention of pollution, safety of life at sea and the employment-related conditions on board.

Whereas the primary attempts at establishing an effective port state control system were merely aimed at eliminating the operation of sub-standard vessels and competition among ports, the MOU went further. It has set out the notions that it acts on the basis that the main responsibility for applying standards is with the flag state and it recognises the supremacy of the rights and obligations of participating states under any international agreements.¹⁴ Maritime authorities must also apply the applicable instruments to which they are parties and which have been enforced.¹⁵ Moreover, the MOU was adopted on an underlying understanding that the

⁸ *Ibid.* p. 369.

⁹ P. Bautista Payoyo, 'Implementation of international conventions through port state control: an assessment' *Marine Policy* (1994) 18 (5) p. 379-392 on p. 380.

¹⁰ *William Rodman Sellers v Maritime Safety Inspector*, Court of Appeal of New Zealand 104/98, 5. November 1998 in article Dermotta Devine, 'Port state jurisdiction: a judicial contribution from New Zealand' *Marine Policy* 24 (2000), p. 215-219 on p. 219.

¹¹ J. Hare, 'Port state control: strong medicine to cure a sick industry', 26 *Georgia Journal of International and Comparative Law*, p.571-594 (1997) on p. 590.

¹² *Ibid.* p. 591.

¹³ Ready, *Ship Registration*, (London 1998), p. 24.

parties to it should ratify the relevant international instruments so as to be as similar as possible to one another in their inspection procedures. Yet, does this not imply that those parties should not unilaterally apply international provision which are not in force?¹⁶

The structure of the Paris MOU is composed of:

1. The Port State Control Committee which is the executive body made up of the representatives of the participating maritime authorities and a representative from the European Commission. It conducts and promotes assignments allocated to it like organisation of seminars for surveyors and harmonising inspecting procedures.

2. The Secretariat is the administrative body which under the Committee's guidance prepares reports, meetings and enables easier exchange of information. It is provided by the Netherlands.

3. The Computer Centre is where all inspection records are entered on a common inspection file. It is in France. The data can be accessed to be checked or updated through on-line terminals in port state control countries.

4. *Inspection under the MOU* Stupanj kontrole u pariškom predugovoru

Under the MOU the authorities have a duty to inspect by firstly visiting the ship to check that it has all the relevant documents and certificates. If it does not or if the inspectors believe that the condition of a vessel or the crew or equipment on board are below the necessary international standard a more detailed inspection may be conducted. The authorities are required to ensure that the faults discovered are rectified. Should those faults be a threat to health, safety or the environment the authority may even detain the vessel in its port. This in itself is a strong economic incentive to ship owners to avoid operating sub-standards vessels. Another factor of influence is that information on vessel detentions is recorded for each flag state. It puts pressure on flag states to maintain a high quality of control procedures. A recent example of this is that of Belize, a flag of convenience, which has in the past year excluded 668 vessels from its registry in its new quality initiative to improve its image as a registry.¹⁷

Also, it has been reported that the measures taken by Cyprus to control its fleet, such as boosting its surveying staff, have reduced the number of detentions of ships flying the Cypriot flag so that it has been pre-

dicted that Cyprus could come off the black list this year.¹⁸ The compilation of a "blacklist" of ship owners and operators, for example, which ITF consider to have violated seafarers' rights, is practised by the ITF.

The instruments that are related to the MOU for the purposes of inspection procedures are the 1966 International Convention on Load Lines, the 1974 SOLAS Convention and its Protocol, the 1978 STCW Convention as amended by STCW 1995, MARPOL 73/78 (International Convention on the Prevention of Pollution by Ships), the 1972 COLREG (Convention on the International Regulation for Preventing Collisions at Sea) and the 1976 ILO Convention No. 147.

The basic elements of inspection have been the construction, condition and manning of ships in ports. Article 5 paragraph 2 of MARPOL 73/78 refers to the "condition of the ship or its equipment", Article 2 of the ILO Convention No. 147 however refers to "safety standards", "shipboard conditions of employment and shipboard living arrangements" and "appropriate social security measures". The focus on the human factor is highlighted further in the 1978 STCW which provides basic requirements regarding training, certification and watch keeping procedures on board.

When combining MARPOL 73/78 with SOLAS 74 however, the legal basis for port state control of on-board operational requirements has been weak or non-existent.¹⁹ The IMO Assembly has adopted several resolutions on Procedures for the Control of Operational Requirements Related to the Safety of Ships and Pollution Prevention. In 1993, the resolution, which was followed by relevant amendments to MARPOL and SOLAS, allowed for port state inspections if clear grounds existed for believing that on-board operational requirements are not being conformed with. The resolution provides detailed guidelines and procedures for such control under SOLAS 74, MARPOL 73/78 and STCW 1978.

Inspection procedures are part of Annex I of the MOU. They are also supplemented by IMO guidelines a significant element of which is the IMO Resolution A.481(XII) on the principles of safe manning, which was adopted in 1981. It prompts member states to make sure that every vessel which must conform with the provisions of the STCW must always have on board a document detailing the minimum safe manning necessary for the vessel in question. The same resolution also considers that Minimum Safe Manning Document as evidence that the vessel is safely manned in

¹⁴ *Memorandum of Understanding on Port State Control*, 21 ILM 1982, section 8.1.

¹⁵ *Ibid.*, section 2.3.

¹⁶ Kasoulides (1993) *op. cit.* 1, p. 152.

¹⁷ *Lloyd's List*, 'Belize flag weeds out 668 ships to polish its tarnished image', 16.01.2002, p. 3 and 'Ship Registers' section, 06.02.2002, p. 16-20.

¹⁸ *Lloyd's List*, 'Cyprus flag crackdown pays off with fall in detentions', 13.09.2001, p. 18.

¹⁹ A. Rosas, 'Port State jurisdiction and control: recent developments' u P. Wetterstein and A. Beiger, *Essays in honour of Hugo Tibergh*, 1996, p. 551.

the context of the exercise of port state control by member states.

One must note that at the time when the MOU was in its negotiating stages the European Community (EC) had put forward a proposal captured in the EC Draft Directive²⁰ which also aimed at creating an effective port state enforcement system but only within the ambit of the EC. The similar attempt of the maritime authorities at creating the MOU prevented the EC proposal to develop further. Nevertheless its provisions may still be compared with the MOU provisions in order to evaluate what could be improved within the current operating system. For example, inspection procedures appear to be more general under the MOU section 3 than under the draft EC Directive section 2.1. Unlike the draft EC Directive, the MOU does not include a list of clear grounds for inspection. It merely includes a report of notification by another authority and a report or a complaint by the master, crew member or someone with a legitimate interest in the safe operation of the ship.

Inspection procedures are unified further each year by annual seminars for surveyors. The seminars also aim for a future bilateral exchange of surveyors between maritime authorities. Although each surveyor is given a manual with references to the provisions of the relevant international instruments no uniform inspection routine has as yet been established.

At the end of the inspection, the inspector gives the documents with the findings of the inspection, including any rectification to be undertaken, to the vessel. Those results are also entered on a data base for that region so that other surveyors can access this data before boarding a vessel to inspect it. Section 3.4 sets out that if the ship is found to have no deficiencies it is not to be inspected in the states, that are under the port state control regime, for the next six months. If, however, deficiencies do exist the surveyor can undertake a detailed inspection. Such a detailed inspection, which can show whether a vessel is substandard, can also be conducted if: the certificates are invalid; or, if they are not on board; or, if the condition of the ship does not accord with the particulars of the certificate; or, if clear grounds exist that the level of compliance with the general international framework by the flag state is such that it does not completely provide for the carriage of specific cargo, that is mostly certain hazardous substances.

5. *The Position of "Non-Convention" Vessels under the MOU*

Primjena pariškog predugovora na brodovima koji su izvan jurisdikcije pariškog predugovora

In relation to the position of non-convention vessels the "no more favourable treatment" is applied. Section 3.4 accompanied by paragraph 1.3 in the MOU states that "Authorities will ensure that no more favourable treatment is given to ships entitled to fly the flag of a state which is not party to it". This has been criticised as ambiguous since one could interpret it as permitting the enforcement of standards laid down in conventions even if those conventions do not include a relevant provision to this effect.²¹ Yet, does this in turn mean that vessels which are flying the flags of states that are not parties to international conventions could be inspected by a port state even where no control provisions exist in those conventions? The provision was however clarified in 1986 MOU Secretariat to mean that in case of a ship flying the flag of a state which is not party to the relevant international conventions like MARPOL 73/78, SOLAS Protocol 78 or STCW 78, that ship will be inspected in a manner such that no more favourable treatment of such ships is secured.²² Under section 1(2) of the MOU surveyors cannot discriminate against foreign vessels by imposing stricter requirements on them.

One could hold the view that most relevant conventions provide for a form of port state control. Article 4 of the 1966 Load Lines Convention states that it shall apply to ships registered in contracting states. Also, its article 22 provides that a ship must hold a valid certificate under the convention. Also, article II of SOLAS 74 applies to vessels that are flying a flag of a member state but under its regulation 20 of chapter 1 any privileges may only be enjoyed if the vessel has a valid certificate under the convention. Perhaps the provision with most impact over a party's power of inspection is the International Maritime Organisation (IMO) Resolution A.466 (XII) which states in section 1.5 of the Annex that port states are to undertake control of non-convention vessels but that any deficiency reports should be submitted to the state concerned instead of the IMO.

It could thus be possible to interpret the text of the MOU broadly so as to include control over vessels of states which are not party to the above-mentioned conventions. However power of control is still exercised restrictively. Such practice is encouraged by the Port State Control Committee. On the one hand, such practice may inhibit development and expansion of a uniform and effective system in the future. On the other,

²⁰ Proposal for a Council Directive concerning the Enforcement, in Respect of Shipping using Community Ports, of International Standards for Shipping Safety and Pollution Prevention, COM (80) 360.

²¹ Kasoulides (1993), *op.cit.*1, p. 155.

²² *Ibid.* Kasoulides, p. 156.

the states as well as the ship owners have been more at ease in that less abuse is likely to occur. One must note that most states have ratified the applicable international instruments anyway. In the light of that notion one must consider how far is restrictive practice a benefit when weighed against the establishment of an effective and harmonised port state regime.

6. Powers of Enforcement under the MOU

Provođenje pariškog predugovora

If the inspection results in a finding of deficiencies the master is required to rectify them before the ship can be given permission to leave the port. Section 3.7 of the MOU states that if deficiencies exist and they are hazardous to safety, health or the environment, the port state authority will ensure that the ship is not permitted to continue its voyage. To secure that the ship remains in the port the authority will take appropriate action which may include detention. For example, Article X of the STCW 1978 provides for an obligation on the port state to prevent the ship from sailing should deficiencies like the inability to maintain watch-keeping standards pose a danger to persons, property or the environment.

Yet, if the port has inadequate facilities which could not be utilised to adjust or repair certain faults, section 3.8 of the MOU provides that the vessel may be allowed to proceed to another port considering it could do so without any unreasonable threat to safety, health or the environment. All the authorities concerned including the next regional port of call and the flag state, must be notified.

Vessels may not however be detained or delayed without a clear ground to do so. Should that happen a port state may have to pay compensation.

Although no penalties are imposed on the master or the crew of the vessel the port state may impose penalties and fines in compliance with its other international or national obligations.

A powerful incentive for ship owners to ensure that their vessels are above substandard quality, that is that they comply with the imposed requirements is that any previously deficient vessel will be on a priority suspect list on any future entries into the ports bound by the MOU. Furthermore, where such a vessel is in distress or where the danger to the port state is serious that vessel might be compelled to leave the port without being able to rectify any deficiency it may have and thus further endangering safety, health and the environment.

The MOU also obliges the authorities to cooperate, consult and exchange information with other authorities so as to further fulfil its goals.

7. The "25 %" Inspection Requirement of The MOU "25%" – uvjet za inspekciju pod pariškim predugovorom

The basic rule is that each authority must on average attain as many inspections as would correspond to 25 per cent of the number of foreign merchant vessels visiting its ports.²³ This may at first appear to be too low a figure. However, let us consider two notions. First, a vessel should in principle be inspected once every six months²⁴ and the majority of the vessels regularly visit certain European ports, like Rotterdam or Antwerp, due to their repetitive trade routes. Then, the vessels of other MOU participating authorities are considered to be foreign vessels. The combined effect of these two notions is that approximately 90 per cent²⁵ of ships that enter European ports is likely to be inspected if the 25 per cent threshold was met by the states. The disadvantages related to this are that there are still ports which have insufficient inspecting personnel. Furthermore, it may also happen that a vessel that can be inspected have already been so in the previous port that it has visited so that some authorities cannot adequately apply their inspecting resources. The system was further criticised for providing insufficient data on individual port states' attitude to inspections and detentions since the information is only available on a regional basis.

The Port State Control Committee has rejected the idea of a list of deficiencies under the justification that not all similar deficiencies may always have the same impact. It has however accepted, on the basis of the requests from the representatives of the shipping industry, that to be able assess the quality of the system, thorough variations of the types of deficiencies need to be considered.²⁶

Although the final decision during inspections is left to the professional opinion of the surveyor, Kasoulides proposes that inspectors should be assisted by guidelines for evaluating the seriousness of certain deficiencies.²⁷ Such guidelines could also assist the implementation of the relevant specifications as well as the establishment of a unified framework of control and possible sanctions.

²³ Section 1.3 of the MOU as *op. cit.* at n. 38.

²⁴ Kasoulides, *op. cit.* 1, p. 159.

²⁵ *Ibid.* The figure is provided by Kasoulides, p. 159.

²⁶ Kasoulides, *op. cit.* 1, p. 160.

²⁷ *Ibid.* p. 161.

8. Conclusion Zaključak

The success of the MOU is reflected in the number of maritime authorities, which have adhered to it. Among them are 17 European states as well as Canada and the Russian Federation.

Its success has also led to the formation of other regional port state control worldwide. For example in 1992 ten Latin American states signed the Vina del Mar Agreement. In 1993 there was the Tokyo Memorandum of Understanding on Port State Control for the Asia/Pacific region. In 1996 the MOU on port state control in the Caribbean region was signed.²⁸

The experience of the MOU has shown that a regional cooperation system can coexist with the wider international regime. One author wrote in 1993 that the reputable owner realizes that he has little to fear from port state control and that he recognizes that if port state control can remove substandard ship from trades then the playing field has been balanced to some extent.²⁹ Perhaps there is even more truth in that statement today in the light of the global development of port state control as well as the relatively successful operation of the MOU. There is no doubt however that the number of flag states and port states involved in port state controls is rising. It has been emphasised that this is partly due to the application of the no-more favourable principle to non-parties to the IMO Conventions and partly due to the strengthening of regional agreements.³⁰

References Literatura

- [1] Bell, D., *Port State Control v Flag State Control: UK government position*, *Marine Policy* 24, 367-370, 1993.
- [2] Berger, A and Wetterstein, P., *Essays in honour of Hugo Tibergh*, 1996.
- [3] Devine, D., *Port State Jurisdiction: a a judicial contribution from New Zealand*, *Marine Policy* 24, 215-219, 2000.
- [4] Geneva Convention on the High Seas, 1958.
- [5] Hare, J., *Port State Control - strong medicine to cure a sick industry* *Georgia Journal of International and Comparative Law* 26, 571-594, 1997.
- [6] Kasoulides, G.C., *Port State Control and Jurisdiction*, Dordrecht, 1993.
- [7] Lloyd's List:
Belize Flag weeds out 668 ships to polish its tarnished image, p.3, 16.01.2002; Cyprus Flag crackdown pays off with fall in detentions, p.18, 13.09.2001; Ship Registers, p.16-20, 06.02.2002.
- [8] Paris Memorandum of Understanding on Port State Control, 21 *International Legal Materials*, 1982.
- [9] Bautista Payoyo, P., Implementation of International Conventions through Port State Control - An Assessment, *Marine Policy* 18(5), 379-392, 1994.
- [10] Proposal for a Council Directive concerning the Enforcement, in respect of Shipping using Community Ports of International Standards for Shipping Safety and Pollution Prevention, COM(80), 360.
- [11] Ready, N.P., *Ship Registration*, London, 1998.
- [12] United Nations Convention on the Law of the Sea, 1982.

Rukopis primljen: 9.10.2002.

²⁸ For details of other regional port state control systems and their impact on individual states see Hare (1997), *op. cit.* 11, p. 582-590.

²⁹ *Op. cit.* 13, p.368.

³⁰ Rosas, *op. cit.* 19, p. 555.