

# Maritime Law Enforcement, Cooperation, and the Belt and Road Initiative

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## 1 Introduction

For decades, the regional Memorandums of Understanding (MoUs) have been developed on port State control to improve the enforcement of maritime conventions and cooperation of maritime sectors of different States. Till now, most global ocean areas are operated by nine MoUs on port State control. Their legal and political basis is rooted in the port State control concepts developed within the maritime conventions. The port State control allows ports to inspect foreign vessels to verify that the vessel conditions, equipment, personnel, and operations comply with the requirements of applicable domestic and international regulations. Adopted in 1982, the Paris MoU on Port State Control in Europe and the North Atlantic Ocean (Paris MoU)<sup>1</sup> was the first mechanism developed at the regional level – to exercise this power to inspect foreign vessels. In December 1993, signed was the MoU on Port State Control in the Asia-Pacific Region (Tokyo MoU).<sup>2</sup> Since then, a group of Asia-Pacific regional ports have cooperated with each other to harmonize their respective enforcement and practices. Amongst these Tokyo MoU Members, the People's Republic of China (PRC) has been one of the most active and contributive Members to enhance the Tokyo MoU's effectiveness.

Furthermore, to promote economic prosperity, the PRC in 2013 proposed the Belt and Road Initiative whose maritime routes go from PRC's coast through the South China Sea and the Indian Ocean to Europe, as well as through the South China Sea to the South Pacific. The areas of Southeast Asia, South Asia, Central and Western Asia, Middle East and Africa, along with Central and Eastern Europe are all covered within the geographic scope of the Belt and Road

<sup>1</sup> *Paris Memorandum of Understanding on Port State Control (Paris MoU)*, opened for signature 26 January 1982, 21 ILM 1 (entered into force on 1 July 1982).

<sup>2</sup> *Memorandum of Understanding on Port State Control in the Asia-Pacific Region (Tokyo MoU)*, opened for signature 2 December 1993 <<http://www.tokyo-mou.org/>> (entered into force on 1 April 1994).

Initiative. This great map goes across several MoUs on port State control. As an initiator and with its great maritime sector and industries, the PRC should have played an important role in developing the enforcement of the MoU on port State control.

This chapter commences with port State jurisdiction and port State control concepts established under the law of the sea. Next, investigated at the regional level are the Tokyo MoU concepts and the PRC's practice within this MoU. With these backgrounds, this chapter proposes that through the Belt and Road Initiative, the PRC can play a role to promote the cooperation and coherence between different MoUs, as well as to encourage the enforcement of maritime conventions within the States along the routes.

## 2 Port State Jurisdiction and Port State Control under the LOS Convention

### 2.1 *Port State Jurisdiction*

Upon the most extensive and comprehensive codification activities under the UN aegis,<sup>3</sup> the UN Convention on the Law of the Sea (LOS Convention)<sup>4</sup> – in 1982 – was adopted to act as the most fundamental legal instrument of maritime activity governance. As the “constitution for the oceans”, the LOS Convention establishes maritime zones, including those under coastal State jurisdictions (internal waters, archipelagic waters, territorial seas, contiguous zones, exclusive economic zones and continental shelves), as well as those outside coastal State jurisdiction (high seas and the Area). These establishments show that the LOS Convention does not deal with port State jurisdiction in great depth.

More specifically, over the internal waters and territorial seas, the coastal States enjoy full jurisdiction with the major exception of foreign vessels' innocent passage rights in territorial seas.<sup>5</sup> In facing any conditions breaches involving access admission to the coastal States' internal waters and ports, the coastal States are granted the right to take any necessary prevention steps.<sup>6</sup> In contrast, over the high seas, it is the flag States' responsibility to carry out the duties to exercise the jurisdiction and control over vessels flying their

3 Tullio Treves, *United Nations Convention on the Law of the Sea* (2008) U.N. Audiovisual Library International Library <<http://legal.un.org/avl/ha/uncls/uncls.html>>.

4 *United Nations Convention on the Law of the Sea (LOS Convention)*, 1982, 1833 UNTS 397.

5 Article 17 of the LOS Convention.

6 Article 25(2) of the LOS Convention.

respective flags.<sup>7</sup> These flag States' duties include enforcing applicable international rules and standards established via the competent international organization or general diplomatic conference, along with domestic laws and regulations adopted accordingly with the LOS Convention to prevent, reduce, and control vessel-source pollution.<sup>8</sup> To complement this often ineffective flag State jurisdiction, the port States are granted enforcement jurisdiction regarding discharges from vessels outside of their waters.<sup>9</sup> The jurisdiction granted to port States is largely established in connection with territorial jurisdiction, which is one of the criminal jurisdiction principles recognized by customary international law.<sup>10</sup> Hence, prior to the LOS Convention's adoption, technical maritime conventions developed by the IMO already contained provisions to authorize port States the power to inspect foreign vessels. Prominent examples include: the 1929 Safety of Life at Sea Convention (SOLAS), Article 21 of the 1966 Load Lines Convention (LL Convention), Regulation 6 of the 1978 Convention for the Prevention of Pollution from Ships (MARPOL), as well as Article X of the 1978 Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW). Therefore, the roles and functions of the port States have been gradually expanded.<sup>11</sup>

## 2.2 *Port State Control and the MoU*

Based on the above-mentioned developments, the port State control system as an innovative exercise was established for the port States to inspect foreign vessels to verify that the vessel condition, equipment, personnel, and operations complied with generally accepted international rules and standards.<sup>12</sup> As the close coordination between the ports in the same geographical region can effectively enforce and harmonize the port State control system, concluded has been the regional Memorandum of Understanding (MoU) on Port State

7 Article 94 of the LOS Convention.

8 Article 217 of the LOS Convention.

9 Article 218 of the LOS Convention; Robin Rolf Churchill and Alan Vaughan Lowe, *The Law of the Sea* (3rd ed, 1999) 350.

10 Bevan Marten, "Port State Jurisdiction, International Conventions, and Extraterritoriality: An Expansive Interpretation", in Henrik Ringbom (ed.), *Jurisdiction over Ships, Post-UNCLOS Developments in the Law of the Sea* (2015) 136; Erik Molenaar, "Port and Coastal States", in Donald R. Rothwell, Alex G. Oude Elferink, Karen N. Scott, and Tim Stephens (eds.), *The Oxford Handbook of the Law of the Sea* (2015) 287–291.

11 Louis B. Sohn and John E. Noyes, *Cases and Materials on the Law of the Sea* (2004) 412. This also reflects Bevan Marten's view that international conventions play an important role in shaping port State jurisdiction, but did not create it, and rarely limit it. See Bevan Marten, above n 10, 117.

12 Louis B. Sohn and John E. Noyes, above n 11, 409.

Control. This regional MoU serves as an inter-governmental cooperative mechanism to regularly and systematically control ships.

### 2.3 *Paris MoU on Port State Control*

In 1982, as the first regional mechanism to develop as this type, the Paris MoU on Port State Control in Europe and the North Atlantic Ocean was adopted by fourteen Maritime Administrations of European port States to timely respond to “a strong political and public outcry in Europe for more stringent regulations” arising from the 1978 Amoco Cadiz oil spill incident.<sup>13</sup> As of February 2019, it has been expanded to twenty-seven Maritime Administrations, including Canada and Russia.<sup>14</sup> It is not only the earliest developed to, but also the most up-to-date in incorporating the requirements of international instruments in pursuit of maritime safety, vessel-source pollution prevention, along with the board vessels’ living and working conditions.<sup>15</sup>

Following this initiative and based on the established principles, many other regional MoUs have been concluded. All these existing regional MoUs cover most of the world oceans.<sup>16</sup> As of February 2019, there are nine arrangements as such, including the Paris MoU on Port State Control, the Tokyo MoU on Port State Control in the Asia-Pacific region, the Acuerdo de Viña del Mar MoU in Latin America, the MoU on Port State Control in the Caribbean region, the Abuja MoU on Port State Control in the West and Central African region, the MoU on Port State Control in the Black Sea region, the Malta MoU on Port State Control in the Mediterranean region, the MoU on Port State Control in the Indian Ocean region, and the Riyadh MoU on Port State Control in the Persian Gulf region.

Within the scope of internationally instruments legally binding on the port States,<sup>17</sup> namely the IMO and ILO Conventions, these MoUs aim to eventually eliminate the operation of substandard vessels via a harmonized system and to

13 Paris MoU on Port State Control, *A Short History of the Paris MoU on PSC* (2016) Paris MoU on Port State Control <<https://www.parismou.org/about-us/history>>.

14 Paris MoU on Port State Control, *Organisation* (2016) Paris MoU on Port State Control <<https://www.parismou.org/about-us/organisation>>.

15 Louis B. Sohn and John E. Noyes, above n 11, 410.

16 IMO, *Port State Control* (2016) IMO <[http://www.imo.org/blast/mainframe.asp?topic\\_id=159](http://www.imo.org/blast/mainframe.asp?topic_id=159)>.

17 For instance, Section 2.4 of the Tokyo MoU states that “[e]ach Authority will apply those relevant instruments which are in force and are binding upon it. In the case of amendments to a relevant instrument each Authority will apply those amendments which are in force and which are binding upon it”.

ensure all vessels operating in their respective regions meet international rules and standards.<sup>18</sup>

## 2.4 *Tokyo MoU on Port State Control*

### 2.4.1 Reflecting the Paris MoU

Inspired by the Paris MoU, signed in 1993 was the Tokyo MoU on Port State Control in the Asia-Pacific Region. In past years, the Tokyo MoU was subject to several amendments. The newest one was adopted on 6 November 2018 and enforced on 1 December 2018.<sup>19</sup> With its full vitality, the Tokyo MoU has been considered as a proper regional regime of port State control; particularly as it has achieved the highest inspection number and rate amongst existing regional MoUs.<sup>20</sup> The Tokyo MoU is, in every other respect, identical to the Paris MoU and generally reflective of the Paris MoU's established framework.<sup>21</sup> For instance, like Section 2.4 of the Paris MoU, the Tokyo MoU adopted the "no more favourable treatment" under its Section 2.5 to ensure that no more favorable treatment will be granted to ships flying the flags of non-Tokyo-MoU-Members.

### 2.4.2 Members and Observers

As of February 2019, the Tokyo MoU consists of twenty Member Authorities, one Cooperating Member Authorities and five Observers in the Asia-Pacific region. Amongst these, noteworthy is that both PRC and Hong Kong (China) are full MoU Members, while Macao (China) enjoys Observer status. Also, the United States Coast Guard (USCG) enjoys Observer status of the Tokyo MoU. This is even though the United States is not a party to any of the MoUs on Port State Control. For Observers, the MoU is not legally binding on them. However, they still apply the principles behind the MoU concepts. For instance, the USCG operates a program in which vessels operating within its jurisdiction are systemically inspected to verify their substantial compliance with applicable domestic and international laws and regulations.

18 John Fitzpatrick, *Measures to Enhance the Capability of a Flag State to Exercise Effective Control over a Fishing Vessel* (2000) FAO <<http://www.fao.org/docrep/005/y3274e/y3274e0d.htm>>.

19 Tokyo MoU, *Memorandum of Understanding* (2016) Tokyo MoU <[http://www.tokyo-mou.org/organization/memorandum\\_of\\_understanding.php](http://www.tokyo-mou.org/organization/memorandum_of_understanding.php)>.

20 Haijiang Yang, *Jurisdiction of the Coast State over Foreign Merchant Ships in Internal Waters and the Territorial Sea* (2006) 106.

21 G.P. Pamborides, *International Shipping Law: Legislation and Enforcement* (1999) 74.

### 2.4.3 Legal Instruments Included

According to the Tokyo MoU, this regional port State control system is currently operated on the basis of the following instruments that includes the:

- (1) International Convention on Load Lines, 1966;
- (2) Protocol of 1988 relating to the International Convention on Load Lines, 1966;
- (3) International Convention for the Safety of Life at Sea, 1974 as amended;
- (4) Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974;
- (5) Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974;
- (6) International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 relating thereto;
- (7) International Convention on Standards for Training, Certification and Watchkeeping for Seafarers, 1978, as amended;
- (8) Convention on the International Regulations for Preventing Collisions at Sea, 1972;
- (9) International Convention on Tonnage Measurement of Ships, 1969;
- (10) Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147);
- (11) Maritime Labor Convention, 2006 (MLC, 2006);
- (12) International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001; as well as
- (13) Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC PROT 1992),<sup>22</sup> which is less than seventeen instruments incorporated in the newest Paris MoU amendment.<sup>23</sup>

Questions might be raised as to whether the Tokyo MoU Members are the contracting parties of these conventions and whether the participation of these Members in the Tokyo MoU makes the conventions which have not been signed and ratified be legally binding on these Members. In the PRC's case, although the PRC is the contracting party to the above-mentioned IMO conventions,<sup>24</sup> it has not ratified the ILO Convention No. 147 and just ratified

<sup>22</sup> Section 2.1 of the Tokyo MoU.

<sup>23</sup> Section 2.1 of the Paris MoU.

<sup>24</sup> IMO, *Status of Conventions* (2016) IMO <<http://www.imo.org/en/About/Conventions/StatusOfConventions/Documents/status-x.xls>>.

the MLC on 12 November 2015 which entered into force for China on 12 November 2016.<sup>25</sup> Unavoidably, some gaps in the instruments' enforcement exist.

However, these facts show that the Tokyo MoU would to a certain degree indirectly make the conventions binding on the MoU Members which have not signed or ratified them. For this, the Tokyo MoU provides a special provision about the conventions adopted by the ILO. The implementation of the ILO Convention No. 147 and MLC will not require any alternations to structure or facilities involving accommodation for ships whose keels were laid down before 1 April 1994 and 20 August 2013 respectively.<sup>26</sup> This arrangement seems to reduce the reluctance of the Tokyo MoU Members to accept the MoU contents, especially when the Tokyo MoU Members may not fully ratify the IMO and ILO conventions incorporated into the Tokyo MoU.

#### 2.4.4 Governing Structure and Inspection Procedures

The Tokyo MoU also establishes a governing body, the Port State Control Committee, located in Tokyo, to carry out specific tasks assigned to it under the MoU by all means necessary that includes: training and seminars, harmonization of procedures and practices relating to inspection, rectification and detention whilst having regard to Section 2.4; to develop and review guidelines for carrying out inspections under the MoU; to develop and review procedures for the exchange of information; and to keep under review other matters relating to the MoU's operations and effectiveness.

Under the Committee's coordination, each Maritime Authority will determine an appropriate annual percentage of individual foreign merchant ships for inspection.<sup>27</sup> About shipping industry costs and operations, inspections should be done at an acceptable rate and thus avoided should be unnecessary inspections. The inspection should consist of a visit on board a ship to check certificates and documents. These are coupled with surveys of the crew's and ship's overall conditions, equipment, machinery spaces, accommodation, and hygienic conditions, etc.<sup>28</sup> In selecting ships for inspection, the Maritime Authorities will determine the priority order based on the New Inspection Regime introduced in 2014.<sup>29</sup> In deficiency cases, which are clearly hazardous to safety, health or the environment, the Maritime Authorities will ensure that the hazards are removed before the ship is allowed to proceed to the sea.

25 ILO, *Ratifications for China* (1996–2012) ILO <[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:103404](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103404)>.

26 Section 2.2 of the Tokyo MoU.

27 Section 1.4 of the Tokyo MoU.

28 Section 3.1 of the Tokyo MoU.

29 Section 3.3 of the Tokyo MoU.

For this purpose, appropriate action will be taken that might include the detention or a formal prohibition of a ship to continue an operation due to established deficiencies, which, individually or together, would render the continued operation hazardous.<sup>30</sup> Under the Tokyo MoU, appeal procedures are also provided.<sup>31</sup> The ship's governing company or representative has an appeal right against a detention taken by the Maritime Authority of the port State. Thus, the Port State Control Officer should properly inform the shipmaster of such right prior to detention. Also, the shipmaster should be advised to use official domestic procedures if desired is an appeal against a detention order.

#### 2.4.5 Effectiveness

Though some doubts have been raised about the Tokyo MoU's efficiency,<sup>32</sup> the efforts of its Member Authorities must be considered. Under the Tokyo MoU, the target annual inspection rate set in 1993 was 50% by the year 2000.<sup>33</sup> According to its Annual Reports, the inspection rate since then had increased to 65% in 2000 and 69% in 2014.<sup>34</sup> In 2003, 20,124 inspections were carried out on ships registered under 98 flags; in 2014, 30,405 inspections were carried out on ship registered under 99 flags. In 2003, 1,709 detentions were carried out on ships registered under 67 flags; in 2014, 1,203 ships registered under 64 flags were detained due to serious deficiencies found on board. These statistics show an 8.49% detention rate in 2003 and a decrease to 3.96% in 2014.<sup>35</sup> Thus, this decrease in detention rates may demonstrate that the Tokyo MoU has been effective as less serious deficiencies are found and that the ship's and the crew's overall conditions seem to have improved.

#### 2.4.6 The PRC's Role

Amongst the Tokyo MoU Members, in 2014, the PRC conducted 7,361 inspections with a 38.66% inspection rate and Hong Kong (China) conducted 736 inspections with a 14.34% inspection rate. Both the PRC and Hong Kong (China)

30 Section 3.7 of the Tokyo MoU.

31 Tokyo MoU, *Appeal Procedures of Member Authorities of the Tokyo MoU* (2016) <<http://www.tokyo-mou.org/doc/Appeal%20Procedures.pdf>>.

32 Ho-Sam Bang, "Recommendations for Policies on Port State Control and Port State Jurisdiction", (2013) 44 *Journal of Maritime Law and Commerce* 115.

33 Haijiang Yang, above n 20 (2006) 105.

34 Tokyo MoU, *Annual Report of Port State Control in the Asia-Pacific Region 2000* (2000) Tokyo MoU <<http://www.tokyo-mou.org/doc/ANN00.pdf>>; Tokyo MoU, *Annual Report on Port State Control in the Asia-Pacific Region 2014* (2014) Tokyo MoU <<http://www.tokyo-mou.org/doc/ANN14.pdf>>.

35 *Ibid.*



contributed up to 26.63% of total inspections conducted within the Tokyo MoU region. Following the inspections, 476 detentions were made by the PRC with a 6.47% detention rate and 47 detentions were made by Hong Kong (China) with a 6.39% detention rate.<sup>36</sup> Along with Australia's 7.9% detention rate, these three Tokyo MoU Members performed the three highest detention rates in 2014.<sup>37</sup> Unequivocally, the PRC – with or without Hong Kong – has become an influential player in the Tokyo MoU regime.

Conclusively, the regional MoUs, such as the Paris MoU and Tokyo MoU, are developed as an instrument to implement port State control. Although doubts exist primarily due to its inefficiency, should be considered are other forms of international cooperation on port State control being able to increase the port State control's effective implementation.<sup>38</sup> Besides, given the coastal and ports' prosperity, the PRC and Hong Kong (China) have extensively contributed to the Tokyo MoU's enforcement.

### 3 The PRC's Maritime Safety Sector and the Belt and Road Initiative

#### 3.1 *The PRC's Maritime Safety Sector*

As a Member of both the IMO Category A Council and the Tokyo MoU, the PRC has strictly fulfilled its obligations under international maritime conventions.<sup>39</sup> The PRC's maritime management is at the core of the Maritime Safety Administration (MSA) under the Ministry of Transport of the PRC, which was merged in 1998 from its two predecessors: the Bureau of Port Supervision and the Bureau of Ship Investigation. On the basis of its Maritime Traffic Safety Law, the Marine Environment Protection Law and other related laws and regulations, the MSA is responsible for the PRC's maritime safety administration. Its major tasks include drafting and implementing relevant national policies, laws, regulations and standards; managing maritime safety and vessel-source pollution; managing the investigation of ships and off-shore facilities; managing seafarers and pilots' training, examination and certification; managing shipping order and navigation condition, including restricted areas, routes, traffic control zones, anchorages and safe operation zones, etc; providing maritime

<sup>36</sup> *Ibid.*, 23.

<sup>37</sup> *Ibid.*

<sup>38</sup> Suggested is to conclude "a MoU on Cooperation between States bordering Enclosed or Semi-enclosed Seas with regard to the Harmonised Exercise of Port State Jurisdiction over Illegal Discharges from Ships". Ho-Sam Bang, above n 34, 129.

<sup>39</sup> Maritime Safety Administration of the People's Republic of China, *Annual Report on PSC in China 2014*, MSA, <<http://en.msa.gov.cn/uploadfile/2015/0921/20150921104226666.pdf>>.

service; implementing maritime conventions as well as fulfilling obligations of flag State, port State and coastal State; other responsibilities authorized by the Ministry of Transport.<sup>40</sup> Within the Central MSA's organizational structure, established were fourteen Regional MSAs under which ninety-seven local branches were founded.<sup>41</sup>

Regarding the PRC's ocean governance institutions, doubts have been raised about the "five competent administration authorities supervising and administering the sea areas",<sup>42</sup> that include its Bureau of Fisheries, Ministry of Agriculture; Navy, Ministry of National Defense; State Oceanic Administration, Ministry of Law and Resources; Marine Police, Ministry of Public Security; Maritime Safety Administration, Ministry of Transport, powers would be decentralized and diluted. Even so, in terms of maritime safety, the MSA has accomplished its duties with due diligence.

### 3.2 *The Belt and Road Initiative*

In 2013, when Chinese President Xi Jinping visited Central Asia and Southeast Asia, he raised the initiative of jointly establishing the Silk Road Economic Belt and the 21st-Century Maritime Silk Road (known as the Belt and Road). The Belt and Road Initiative ambitiously aims to promote economic prosperities of the countries along the Belt and Road, enhance regional economic cooperation, strengthen exchanges and mutual learning between different civilizations, as well as promote world peace and development.<sup>43</sup>

Geographically, the Silk Road Economic Belt extensively brings together the PRC, Central Asia, Russia and Europe (the Baltic); links the PRC with the Persian Gulf and the Mediterranean Sea through Central Asia and West Asia; as well as connects the PRC with Southeast Asia, South Asia and the Indian Ocean. Moreover, the 21st-Century Maritime Silk Road is designed to go from the PRC's coast to Europe through the South China Sea and the Indian Ocean

40 Maritime Safety Administration of the People's Republic of China, *About Us: Introduction*, MSA <<http://en.msa.gov.cn/index.php?m=content&c=index&a=lists&catid=328>>.

41 Maritime Safety Administration of the People's Republic of China, *About Us: Organizational Structure*, MSA, <<http://en.msa.gov.cn/index.php?m=content&c=index&a=lists&catid=324>>.

42 Ma Jing Jing and Du Jiang, "Discussion on the national claim system for oil pollution damage from ships", in Michael G. Faure and James Hu (eds.), *Prevention and Compensation of Marine Pollution Damages, Recent Developments in Europe, China and the US* (2006), 230.

43 The State Council of the People's Republic of China, *Full text: Action plan on the Belt and Road Initiative*, the State Council of the People's Republic of China, <[http://english.gov.cn/archive/publications/2015/03/30/content\\_281475080249035.htm](http://english.gov.cn/archive/publications/2015/03/30/content_281475080249035.htm)>.

in one route, and from the PRC's coast through the South China Sea to the South Pacific in the other.<sup>44</sup>

With the aforementioned geography, two perspectives are developed. On land, the Initiative will focus on jointly building a new Eurasian Land Bridge and developing China-Mongolia-Russia, China-Central Asia-West Asia and China-Indochina Peninsula economic corridors by taking advantage of international transport routes, relying on core cities along the Belt and Road and using key economic industrial parks as cooperation platforms.<sup>45</sup> At sea, the Initiative will focus on jointly building smooth, secure and efficient transport routes connecting major sea ports along the Belt and Road.<sup>46</sup> More specifically, the China-Pakistan Economic Corridor and the Bangladesh-China-India-Myanmar Economic Corridor are closely related to the Belt and Road Initiative, and therefore require closer cooperation and greater progress.<sup>47</sup>

Within the Initiative, priorities are given to cooperation, which include policy coordination, facilities connectivity, unimpeded trade, financial integration and people to people bound. Regarding the maritime sector, proposed have been to push forward port infrastructure construction, to build smooth transportation channels, to advance port cooperation, to increase sea routes and the number of voyages and to enhance information technology cooperation in maritime logistics.<sup>48</sup> Although the concepts have not been specified, maritime cooperation centered on technology and personnel exchange are also considered.<sup>49</sup> Moreover, given the transportation importance, strengthened is to construct the coastal port cities along the PRC's coast that includes Shanghai, Tianjin, Ningbo-Zhoushan, Guangzhou, Shenzhen, Zhanjiang, Shantou, Qingdao, Yantai, Dalian, Fuzhou, Xiamen, Quanzhou, Haikou, and Sanya.<sup>50</sup>

To endorse the Belt and Road Initiative, the PRC has promoted project cooperation. Enhanced have been communication and consultation with countries along the Belt and Road. Promoted have been a number of key cooperation projects in various fields. For instance, maritime cooperation, together with infrastructure connectivity, industrial investment, resource development,

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44 *Ibid.*

45 *Ibid.*

46 *Ibid.*

47 *Ibid.*

48 *Ibid.*

49 *Ibid.*

50 *Ibid.*

economic and trade cooperation, financial cooperation, cultural exchanges and ecological protection are taken into account, where conditions are right.<sup>51</sup>

Optimistically, the PRC considers that as long as all countries along the Belt and Road make concerted efforts to pursue a common goal, there will be bright prospects for the Silk Road Economic Belt and the 21st-Century Maritime Silk Road. Hence, the people of the countries along the Belt and Road can all benefit from this Initiative.<sup>52</sup>

In sum, the Belt and Road Initiative covers broadly in terms of geography, cooperation fields, as well as the actions taken. Although the maritime sector has not taken very high percentage of the Initiative's concepts, the cooperation in the maritime sector, and between sea ports should be concerned in the Initiative, given that half of the Initiative's geographical scope is ocean based. More specifically, about port State control, the PRC's experiences can be applied wisely to strengthen the maritime cooperation between different ports and between Maritime Authorities. Investigated next is to what extent the PRC can contribute to this perspective.

### 3.3 *Considering the Port State Control System in the Initiative*

Amongst the Belt and Road Initiative States,<sup>53</sup> thirty out of sixty-three in total are Members of different regional MoUs on port State control; for instance, Bulgaria, Croatia, Estonia, Latvia, Lithuania, Poland, Romania, Slovenia and Russia in the Paris MoU; the PRC itself, Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam in the Tokyo MoU; Turkey, Jordan, Egypt, Israel and Lebanon in the Mediterranean MoU; India and Sri Lanka in the Indian Ocean MoU; Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates (UAE) in the Riyadh MoU; Bulgaria, Romania, Russia, Turkey and Ukraine in the Black Sea MoU. Given the effectiveness of the Tokyo MoU's enforcement and the PRC's experience and role in the Tokyo MoU, analyzed as follows.

### 3.4 *Cooperation to Improve the Shipping Condition*

According to annual reports made by the PRC's MSA, the inspection of ships in the PRC's ports and deficiencies plus detentions are recorded on the country's basis. Table 12.1 shows the records of Initiative States (both Members and

51 *Ibid.*

52 *Ibid.*

53 HKTDC Research, The Belt and Road Initiative: Country Profiles, HKTDC Research, <<http://china-trade-research.hktdc.com/business-news/article/One-Belt-One-Road/The-Belt-and-Road-Initiative-Country-Profiles/obor/en/1/1X3CGF6L/1XoA36lo.htm>>.

TABLE 12.1 PSC inspection per flag State which falls into the scope of the Belt and Road Initiative in 2014<sup>a</sup>

Ship Flag	No. of Initial Inspections	No. of Inspections with Deficiencies	No. of Detention	Detention Percentage	No. of Deficiencies	No. of Deficiencies Per Ship
Bahrain	1	1	0	0	4	4.00
Bangladesh*	22	21	7	31.82%	160	7.27
Cambodia*	384	384	60	15.63%	3160	8.23
Croatia	4	4	0	0	26	6.50
Egypt	6	5	1	16.67%	32	5.33
Georgia*	1	1	0	0	3	3.00
India	26	25	1	3.85%	152	5.85
Indonesia	21	21	7	33.33%	211	10.05
Iran*	37	32	5	13.51%	209	5.65
Israel	5	5	0	0	30	6.00
Kuwait	9	8	0	0	28	3.11
Malaysia	21	15	1	4.76%	68	3.24
Moldova*	28	28	10	35.71%	347	12.39
Montenegro*	1	1	0	0	1	1.0
Myanmar*	4	4	1	25.00%	19	4.75
Pakistan*	3	3	0	0	23	7.67
Philippines	42	39	8	19.05%	245	5.83
Qatar	1	0	0	0	0	0.00
Russia	79	79	12	15.19%	547	6.92
Saudi Arabia	28	18	0	0	54	1.93
Singapore	432	343	0	0	1383	3.20
Thailand	31	31	6	19.35%	226	7.29
Turkey	17	13	0	0	36	2.12
UAE	4	4	1	25.00%	12	3.00
Vietnam	105	102	19	18.10%	752	7.16
Total with all other flags	7360	6189	481	6.54%	33768	4.59

a Maritime Safety Administration of the People's Republic of China, *Annual Report on PSC in China 2014*, MSA, <<http://en.msa.gov.cn/uploadfile/2015/0921/20150921104226666.pdf>>.

Listed with "\*" are States, not Members of any regional MoU on port State control.

Highlighted are the overall deficiencies found per ship higher than the average 4.59.

non-Members of the regional MoU on port State Control) whose ships are inspected in the PRC's ports. The numbers of deficiencies per ship founded in fifteen of twenty-five States have been lower than the average. These show that the Initiative States are mostly weaker in the maritime sector. These provide opportunities for the PRC to strengthen the following maritime cooperation:

1. through the Belt and Road Initiative to assist the Initiative States improve their vessel conditions;
2. via the Tokyo MoU's experience and the network of the IMO to encourage the effectiveness of other MoUs;
3. through the Belt and Road Initiative to establish the connection and cooperation between different MoUs to improve the global maritime enforcement.

There are also States which fall into the scope of the Belt and Road Initiative not listed, including in Southeast Asia: Brunei, Laos and Timor-Leste; in South Asia: Bhutan, Maldives, Nepal and Sri Lanka; in Central and Western Asia: Afghanistan, Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan, Mongolia, Tajikistan, Turkmenistan, and Uzbekistan; in the Middle East and Africa: Iraq, Oman, Jordan, Lebanon, Palestine, Syrian Arab Republic and Yemen; in Central and Eastern Europe: Albania, Belarus, Bosnia & Herzegovina, Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Macedonia, Poland, Romania, Serbia, Slovakia, Slovenia and Ukraine.

### 3.5 *Encouragement to Comply with the Maritime Conventions*

Amongst the Belt and Road Initiative States, the PRC seems to be one of the States which have highly accepted the IMO Conventions. For instance, within the Tokyo MoU Members (Table 12.2), the PRC, except Russia, is the one that has accepted the most IMO Conventions and left the others behind that includes Singapore, one of the biggest port States in the region. Thus, the PRC is comparable to the States of the Paris MoU States (Table 12.3), Egypt and Turkey in the Mediterranean MoU (Table 12.4) as well as India in the Indian Ocean MoU (Table 12.5). Besides, some States, such as those in the Riyadh MoU (Table 12.6) and Ukraine in the Black Sea MoU (Table 12.7), seem to need more efforts in accepting the maritime conventions.

In sum, the acceptance of the maritime conventions is essential to maritime enforcement and maritime cooperation. Based on the above analysis, the PRC is one of the States which have accepted most of the IMO Conventions. In particular, given the background that a great number of the one-hundred-and-seventy IMO Member States have accepted fewer than half of its conventions and protocols, the IMO has warned that the slow ratification of maritime

TABLE 12.2 Status of IMO Conventions to the Belt and Road Initiative States which are also the Tokyo MoU Members<sup>a</sup>

STATUS OF CONVENTIONS	
China	IMO Convention 48 SOLAS Convention 74 SOLAS Protocol 78 SOLAS Protocol 78 SOLAS Protocol 78 SOLAS Agreement 96 LOAD LINES Convention 66 LOAD LINES Protocol 88 TONNAGE Convention 69 GOLREG Convention 72 GSC Convention 72 CSC amendments 93 SFP Protocol 93 Cape Town Agreement 2012 STCW-F Convention 78 STCW-F Convention 95 SAR Convention 79 STP Agreement 71 Space STP Protocol 73 IMSO Convention 76 INMARSAT OA 76 IMSO amendments 2006 IMSO amendments 2008 FACILITATION Convention 65 MARPOL 73/78 (Annex I/II) MARPOL 73/78 (Annex III) MARPOL 73/78 (Annex IV) MARPOL 73/78 (Annex V) MARPOL Protocol 97 (Annex VI) London Convention 72 London Convention 96 INTERVENTION Protocol 69 INTERVENTION Protocol 73 GLC Convention 69 GLC Protocol 76 GLC Protocol 76 GLC Protocol 92 FUND Protocol 76 FUND Protocol 92 FUND Protocol 2003 NUCLEAR Convention 71 PAL Convention 74 PAL Protocol 76 PAL Protocol 90 PAL Protocol 92 PAL Protocol 96 LIMC Convention 76 SUA Convention 88 SUA Protocol 88 SUA Convention 2005 SUA Protocol 2005 SUA Convention 89 SALVAGE Convention 89 OPRC Convention 90 HNS Convention 96 HNS PROT 2010 OPRC/HNS 2000 BUNKERS CONVENTION 01 ANTIFOULING 01 BALLASTWATER 2004 NAIROBI WRC 2007 HONG KONG CONVENTION
Indonesia	x
Malaysia	x
Philippines	x
Russian Federation	x
Singapore	x
Thailand	x
Viet Nam	x
AssociateMembers	
Hong Kong, China	x
Macao, China	x

a IMO, *About IMO, Status of Conventions*, IMO, <<http://www.imo.org/en/About/Conventions/StatusOfConventions/Pages/Default.aspx>>.

x = Contracting State

d = denunciation

TABLE 12.3 Status of IMO Conventions to the Belt and Road Initiative States which are also the Paris MoU Members<sup>a</sup>

STATUS OF CONVENTIONS	
	IMO Convention 48
	SOLAS Convention 74
	SOLAS Protocol 78
	SOLAS Protocol 88
	SOLAS Agreement 96
	LOAD LINES Convention 66
	LOAD LINES Protocol 88
	TONNAGE Convention 69
	COLREG Convention 72
	CSC Convention 72
	CSC amendments 93
	SFV Protocol 93
	Cape Town Agreement 2012
	STCW Convention 78
	STCW-F Convention 95
	SAR Convention 79
	STP Agreement 71
	Space STP Protocol 73
	IMSO Convention 76
	INMARSAT OA 76
	IMSO amendments 2006
	IMSO amendments 2008
	FACILITATION Convention 65
	MARPOL 73/78 (Annex I/II)
	MARPOL 73/78 (Annex III)
	MARPOL 73/78 (Annex IV)
	MARPOL 73/78 (Annex V)
	MARPOL Protocol 97 (Annex VI)
	London Convention 72
	London Convention Protocol 96
	INTERVENTION Convention 69
	INTERVENTION Protocol 73
	CIC Convention 69
	CIC Protocol 76
	CIC Protocol 92
	FUND Protocol 76
	FUND Protocol 92
	FUND Protocol 2003
	NUCLEAR Convention 71
	PAL Convention 74
	PAL Protocol 76
	PAL Protocol 90
	PAL Protocol 02
	LLMC Convention 76
	LLMC Protocol 96
	SUA Convention 88
	SUA Protocol 88
	SUA Convention 2005
	SUA Protocol 2005
	SALVAGE Convention 89
	OPRC Convention 90
	HNS Convention 96
	HNS PROT 2010
	OPRC/HNS 2000
	BUNKERS CONVENTION 01
	ANTIPOULING 01
	BALLASTWATER 2004
	NAIROBI WRC 2007
	HONG KONG CONVENTION

<sup>a</sup> IMO, *About IMO, Status of Conventions*, IMO, <<http://www.imo.org/en/About/Conventions/StatusOfConventions/Pages/Default.aspx>>.

x = Contracting State

d = denunciation



TABLE 12.4 Status of IMO Conventions to the Belt and Road Initiative States which are also the Mediterranean MoU Members<sup>a</sup>

STATUS OF CONVENTIONS

IMO Convention	Egypt	Israel	Jordan	Lebanon	Turkey
IMO Convention 48	x	x	x	x	x
SOLAS Convention 74	x	x	x	x	x
SOLAS Protocol 78	x	x	x	x	x
SOLAS Protocol 88	x	x	x	x	x
SOLAS Agreement 96	x	x	x	x	x
LOAD LINES Convention 66	x	x	x	x	x
LOAD LINES Protocol 88	x	x	x	x	x
TONNAGE Convention 69	x	x	x	x	x
COLREG Convention 72	x	x	x	x	x
CSC Convention 72	x	x	x	x	x
CSC amendments 93	x	x	x	x	x
SFV Protocol 93	x	x	x	x	x
Cape Town Agreement 2012	x	x	x	x	x
STCW Convention 78	x	x	x	x	x
STCW-F Convention 95	x	x	x	x	x
SAR Convention 79	x	x	x	x	x
STP Agreement 71	x	x	x	x	x
Space STP Protocol 73	x	x	x	x	x
IMSO Convention 76	x	x	x	x	x
INMARSAT OA 76	x	x	x	x	x
IMSO amendments 2006	x	x	x	x	x
IMSO amendments 2008	x	x	x	x	x
FACILITATION Convention 65	x	x	x	x	x
MARPOL 73/78 (Annex I/II)	x	x	x	x	x
MARPOL 73/78 (Annex III)	x	x	x	x	x
MARPOL 73/78 (Annex IV)	x	x	x	x	x
MARPOL 73/78 (Annex V)	x	x	x	x	x
MARPOL Protocol 97 (Annex VI)	x	x	x	x	x
London Convention 72	x	x	x	x	x
London Convention Protocol 96	x	x	x	x	x
INTERVENTION Convention 69	x	x	x	x	x
INTERVENTION Protocol 73	x	x	x	x	x
CIC Convention 69	x	x	x	x	x
CIC Protocol 76	x	x	x	x	x
CIC Protocol 92	x	x	x	x	x
FUND Protocol 76	x	x	x	x	x
FUND Protocol 92	x	x	x	x	x
FUND Protocol 76	x	x	x	x	x
FUND Protocol 92	x	x	x	x	x
NUCLEAR Convention 71	x	x	x	x	x
PAL Convention 74	x	x	x	x	x
PAL Protocol 76	x	x	x	x	x
PAL Protocol 90	x	x	x	x	x
PAL Protocol 02	x	x	x	x	x
LLMC Convention 76	x	x	x	x	x
LLMC Protocol 96	x	x	x	x	x
SUA Convention 88	x	x	x	x	x
SUA Protocol 88	x	x	x	x	x
SUA Convention 2005	x	x	x	x	x
SUA Protocol 2005	x	x	x	x	x
SALVAGE Convention 89	x	x	x	x	x
OPRC Convention 90	x	x	x	x	x
HNS Convention 96	x	x	x	x	x
HNS PROT 2010	x	x	x	x	x
OPRC/HNS 2000	x	x	x	x	x
BUNKERS CONVENTION 01	x	x	x	x	x
ANTIFOULING 01	x	x	x	x	x
BALLASTWATER 2004	x	x	x	x	x
NAIROBI WRC 2007	x	x	x	x	x
HONG KONG CONVENTION	x	x	x	x	x

a IMO, *About IMO, Status of Conventions*, IMO, <<http://www.imo.org/en/About/Conventions/StatusOfConventions/Pages/Default.aspx>>.  
 x = Contracting State  
 d = denunciation

TABLE 12.5 Status of IMO Conventions to the Belt and Road Initiative States which are also the Indian Ocean MoU Members<sup>a</sup>

STATUS OF CONVENTIONS

	India	Sri Lanka	IMO Convention 48
	x	x	SOLAS Convention 74
	x	x	SOLAS Protocol 78
	x	x	SOLAS Protocol 88
	x	x	SOLAS Agreement 96
	x	x	LOAD LINES Convention 66
	x	x	LOAD LINES Protocol 88
	x	x	TONNAGE Convention 69
	x	x	COLREG Convention 72
	x	x	GSC Convention 72
	x	x	GSC amendments 93
	x	x	SFV Protocol 93
	x	x	Cape Town Agreement 2012
	x	x	STCW Convention 78
	x	x	STCW-F Convention 95
	x	x	SAR Convention 79
	x	x	STP Agreement 71
	x	x	Space STP Protocol 73
	x	x	IMSO Convention 76
	x	x	INMARSAT OA 76
	x	x	IMSO amendments 2006
	x	x	IMSO amendments 2008
	x	x	FACILITATION Convention 65
	x	x	MARPOL 73/78 (Annex I/II)
	x	x	MARPOL 73/78 (Annex III)
	x	x	MARPOL 73/78 (Annex IV)
	x	x	MARPOL 73/78 (Annex V)
	x	x	MARPOL 73/78 (Annex VI)
	x	x	London Convention 72
	x	x	London Convention Protocol 96
	x	x	INTERVENTION Protocol 73
	p	p	GLC Convention 69
	x	x	GLC Protocol 76
	x	x	GLC Protocol 92
	x	x	FUND Protocol 76
	x	x	FUND Protocol 92
	x	x	NUCLEAR Convention 71
	x	x	PAL Convention 74
	x	x	PAL Protocol 76
	x	x	PAL Protocol 90
	x	x	PAL Protocol 02
	x	x	LIMC Convention 76
	x	x	LIMC Protocol 96
	x	x	SUA Convention 88
	x	x	SUA Protocol 88
	x	x	SUA Convention 2005
	x	x	SUA Protocol 2005
	x	x	SALVAGE Convention 89
	x	x	OPRC Convention 90
	x	x	HNS Convention 96
	x	x	HNS PROT 2010
	x	x	OPRC/HNS 2000
	x	x	BUNKERS CONVENTION 01
	x	x	ANTIFOULING 01
	x	x	BALLASTWATER 2004
	x	x	NAIROBI WRC 2007
	x	x	HONG KONG CONVENTION

<sup>a</sup> IMO, *About IMO, Status of Conventions*, IMO, <<http://www.imo.org/en/About/Conventions/StatusOfConventions/Pages/Default.aspx>>.

x = Contracting State

d = denunciation





conventions may threaten maritime safety and security.<sup>54</sup> As the PRC has also been influential in the maritime sector, the IMO, and the region, proposed is that through maritime cooperation in the Belt and Road Initiative, the PRC has the prime opportunity to promote the acceptance of the maritime conventions, in particular that maritime conventions – providing the internationally recognized standards – can serve as the basis of cooperation.

#### 4 Conclusion

To complement the flag State jurisdiction, the concepts of the port State jurisdiction and port State control system have been developed. Until now, most of the world oceans have been covered by all existing regional MoUs. Amongst these MoUs, the 1982 Paris MoU and 1993 Tokyo MoU can be considered the top two effective MoUs. The PRC, being the most active enforcer of the Tokyo MoU with the proposed Belt and Road Initiative, has the prime opportunity to promote maritime cooperation among the Initiative States. With the aforesaid analysis, through the Belt and Road Initiative, assistance can thus be provided to the Initiative States to improve their vessel conditions; efforts can be made via the PRC's experience in the Tokyo MoU and the IMO network to encourage other MoUs' effectiveness; connection and cooperation can be made between different MoUs to improve global maritime enforcement; maritime conventions' acceptance should be promoted to serve as maritime cooperation's foundation. With all these said, by strengthening maritime cooperation within the Initiative's scope, overall economic prosperity and the marine environment can thus be secured.

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54 Safe Sea, *IMO Slow ratification of key maritime conventions threatens safety and security*, <<https://safewaters.wordpress.com/2010/07/22/imo-slow-ratification-of-key-maritime-conventions-threatens-safety-and-security/>>.