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| <p>Title: Post Implementation Review: The Merchant Shipping (Port State Control) Regulations 2011</p> <p>PIR No: DfTPIR0067</p> <p>Original IA/RPC No: DfT00013</p> <p>Lead department or agency: Maritime and Coastguard Agency</p> <p>Other departments or agencies: N/A</p> <p>Contact for enquiries: HQ_InspectionOps@mcga.gov.uk</p> | Post Implementation Review |
| | Date: 07/03/2024 |
| | Type of regulation: Domestic |
| | Type of review: Statutory |
| | Date measure came into force: 24/11/2011 |
| | Recommendation: Amend |
| | RPC Opinion: N/A |

Recommendation and Summary of Justification

This is a review of the Merchant Shipping (Port State Control) Regulations 2011 (S.I. 2011/2601) ('**2011 Regulations**')¹. These regulations have been amended by: -

- The Merchant Shipping (Standards of Training, Certification and Watchkeeping) Regulations 2015 (S.I. 2015/782)²
- The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Electromagnetic Fields) Regulations 2016 (S.I. 2016/1026)³
- The Merchant Shipping (Monitoring, Reporting and Verification of Carbon Dioxide Emissions) and the Port State Control (Amendment) Regulations 2017 (S.I. 2017/825)⁴
- The Fishing Vessels (Codes of Practice) Regulations 2017 (S.I. 2017/943)⁵
- The Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations 2018 (S.I. 2018/68)⁶
- The Merchant Shipping (Fees) Regulations 2018 (S.I. 2018/1104)⁷
- The Ship Recycling (Requirements in relation to Hazardous Materials on Ships) (Amendment etc.) Regulations 2018 (S.I. 2018/1122)⁸
- The Merchant Shipping (Miscellaneous Provisions) (Amendments etc.) (EU Exit) Regulations 2018 (S.I. 2018/1221)⁹
- The Merchant Shipping (Prevention of Oil Pollution) Regulations 2019 (S.I. 2019/42)¹⁰
- The Merchant Shipping (Prevention of Air Pollution from Ships) (Miscellaneous Amendments) Regulations 2019 (S.I. 2019/940)¹¹

¹ <https://www.legislation.gov.uk/uksi/2011/2601/contents>

² <https://www.legislation.gov.uk/id/uksi/2015/782>

³ <https://www.legislation.gov.uk/id/uksi/2016/1026>

⁴ <https://www.legislation.gov.uk/uksi/2017/825/contents>

⁵ <https://www.legislation.gov.uk/id/uksi/2017/943>

⁶ <https://www.legislation.gov.uk/id/uksi/2018/68>

⁷ <https://www.legislation.gov.uk/id/uksi/2018/1104>

⁸ <https://www.legislation.gov.uk/uksi/2018/1122/contents>

⁹ <https://www.legislation.gov.uk/uksi/2018/1221/contents>

¹⁰ <https://www.legislation.gov.uk/id/uksi/2019/42>

¹¹ <https://www.legislation.gov.uk/uksi/2019/940/contents/made>

- The Merchant Shipping (Port State Control and Prevention of Pollution from Noxious Liquid Substances in Bulk) (Amendment) Regulations 2020 (S.I. 2020/496)¹²
- The Merchant Shipping (Prevention of Pollution by Sewage from Ships) Regulations 2020 (S.I. 2020/620)¹³
- The Merchant Shipping (Prevention of Pollution by Garbage from Ships) Regulations 2020 (S.I. 2020/621)¹⁴
- The Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Regulations 2022 (S.I. 2022/737)¹⁵

The scope of this post implementation review ('**PIR**') as set out in the 2011 Regulations requires a review of the regulatory system implemented by the 2011 Regulations. All the amendments listed above are for the most part minor word substitutions or insertions and their effects have been incorporated into this review.

Overall, the evidence gathered for this review regarding the efficacy of the 2011 Regulations indicate that they achieved their intended outcomes and act as part of a harmonised approach to safety standards, however, a minor amendment is required to reflect an update to the Paris Memorandum of Understanding ('**Paris MoU**')¹⁶ that now references additional international Conventions to those already stipulated (namely the Nairobi International Convention on the Removal of Wrecks ('**Nairobi WRC 2007**'), and an update of the ILO 147 reference to the Maritime Labour Convention 2006). The United Kingdom ('**UK**') has now also ratified and implemented the International Convention for the Control and Management of Ships' Ballast Water and Sediments¹⁷, so this convention reference is now required to be incorporated into the 2011 Regulations. Therefore, the Maritime and Coastguard Agency ('**MCA**') recommend that the 2011 Regulations require **amendment**.

To amend the 2011 Regulations in this way brings our legislation in line with the requirements of the Paris MoU for port State control, the inspection regime which the United Kingdom are a signatory to. The MCA have already begun the process to address the amendments required to update the 2011 Regulations with an anticipated laying date of Spring 2025. From a practical perspective the lack of convention references poses no risk to the UK's ability to honour its obligations within the framework of maritime legislation as ships to whom the conventions apply are subject to the convention requirements in other statutory instruments thus preserving continuity and allowing for the required oversight by the MCA to ensure safety standards are maintained at a suitable level for all ships.

1. What were the policy objectives of the measure?

The 2011 Regulations transposed into UK law Directive 2009/16/EC of 23 April 2009 on port State control ('**the 2009 Directive**').

The port State control ('**PSC**') regime is used as a defence against ships registered with flag States which fail to enforce compliance with international standards for safety, pollution prevention and crew working and living conditions on ships on their registers. States whose ports are visited by foreign flagged ships ('**port States**') may inspect those ships against international standards, require deficiencies to be rectified and, in the case of series deficiencies, may detain the ship until they are put right.

¹² <https://www.legislation.gov.uk/uksi/2020/496/contents/made>

¹³ <https://www.legislation.gov.uk/id/uksi/2020/620>

¹⁴ <https://www.legislation.gov.uk/id/uksi/2020/621>

¹⁵ <https://www.legislation.gov.uk/id/uksi/2022/737>

¹⁶ <https://www.parismou.org/>

¹⁷ <https://www.legislation.gov.uk/uksi/2022/737/contents/made>

The Paris MoU is an international administrative agreement between 27 maritime authorities, including both European Union ('EU') and non-EU signatories ('Member States'), to harmonise inspection effort within the Paris MoU geographical region and entered operation in 1982¹⁸.

Following the grounding of the Braer in 1993, the EU adopted a European Council resolution with the intent of formalising the regime. This was taken forward in Council Directive 95/21/EC of 19 June 1995 ('the 1995 Directive') concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions. This was implemented in the UK by the Merchant Shipping (Port State Control) Regulations 1995 (S.I. 1995/3128) ('the 1995 Regulations'). In due course this legislation was superseded in the EU by the 2009 Directive and then implemented domestically by the 2011 Regulations. (Annex 1 provides more detail on this history).

Participation in the PSC regime and the introduction of the 2011 Regulations was a commitment placed upon the Secretary of State. This commitment was to carry out a proportion of PSC inspections of vessels calling at UK ports as determined pursuant to Article 5 of the 2009 Directive. The MCA is charged with carrying out the inspections (see Annex 1 for more detail). The mechanism for targeting vessels is based on a priority system (Priority I and Priority II) as set out within the framework of the Paris MoU.

In summary, the policy objectives of the 2011 Regulations were to comply with the UK's commitments under the 2009 Directive and thereby: -

- Improve the control of foreign flagged ships calling at ports and anchorages in the UK by focusing inspections on high-risk ships so that they are inspected, in depth, at frequent intervals. The port State can require the owner to take actions to bring the ship and its crew in compliance with international standards.
- Prevent persistently substandard ships from trading to ports of Member States.
- Use the system for risk-based inspections to reduce the frequency and therefore the burden of inspections on low-risk ships.

To achieve these objectives, the 2011 Regulations introduced the following changes from the regime that had existed under the 1995 Regulations: -

- Replaced the requirement to inspect 25% of individual foreign flagged ships calling at UK ports each year with an annual inspection commitment to contribute the UK's 'share' of risk-based inspections due in the Paris MoU region.
- A requirement that expanded (in depth) inspections of ships with a high-risk profile are carried out at 6-month intervals (in addition to continuing the previous regime of expanded inspections of ships of certain types and age, which are inspected at intervals determined by their risk profile).
- A requirement to allow sufficient time in the operating schedule of ships due for expanded inspections for the inspection to be carried out and an obligation on the ship to remain in port until the inspection is completed. Owners and masters of ships due for expanded inspections were already required to give 72 hours' notice of arrival in port.
- Rules for refusal of access (banning) were extended to ships of any type which are repeatedly detained. The period of the ban increases on each occasion and may result in permanent refusal of access to ports and anchorages of Member States on the third occasion and will result in this on the fourth occasion.

¹⁸ <https://www.parismou.org/about-us/organisation>

- Pilot reporting obligations (the duty to report anomalies on ships) were extended to UK pilots on foreign ships in transit in UK waters (deep sea pilots). They already applied to UK harbour pilots on foreign ships engaged in berthing or unberthing the ship or bound for a UK port.
- Port authorities were required to provide the MCA with actual times of arrival and departure of ships calling at their ports and anchorages and in an electronic format where possible.

The policy objectives of the 2011 Regulations have not changed since their introduction. The MCA's position is that government intervention through PSC is still required to defend against the risk to persons, ships, the marine environment and UK national interests posed by internationally trading substandard ships which call at UK ports and anchorages.

At the time of implementation, the UK was a member of the EU and thus transposing the requirements of the 2009 Directive also removed the risk of criticism and infraction proceedings against the UK. The UK remains a signatory to the Paris MoU and its commitments, despite no longer being a member of the EU.

2. What evidence has informed the PIR?

Based on the proportionality criteria in the Better Regulation Framework¹⁹ Manual ('**BRFM**') and Magenta Book²⁰, a low level of resource has been used to inform a "light-touch review" of the evidence base in the original assessment.

The 2011 Regulations were not considered high profile or contentious but sought to address the risks relating to foreign flagged vessels calling at UK ports and to contribute to a harmonised inspection regime across the Member States of the agreement by specifying a fair share of inspections for the benefit of ships, port authorities and States alike.

For the purpose of this PIR, the MCA's Inspection Operations Branch conducted a detailed desk top review with regards to the references to EU Directives and international Conventions contained within the 2011 Regulations. The review was a check to make sure it aligned with the current version of Paris MoU which the 2011 Regulations implement.

The UK, represented by the MCA, is an active member of the decision and policy making system that frames the Paris MoU and attends two international Paris MoU meetings a year along with several other ad hoc virtual Task Force meetings, which are convened for a variety of policy and process topics. Any anecdotal evidence of issues relating to the implementation or operation of the 2011 Regulations would have been raised during these meetings and acted upon. Furthermore, the MCA have not been made aware of any issues that have not been addressed.

Data taken from annual Paris MoU reports²¹ have also been used for this PIR, which is administrative data and is good quality.

Data taken from the European Maritime Safety Agency's ('**EMSA**') database known as THETIS²².

For the PIR produced in 2016 ('**2016 PIR**') a consultation was undertaken to which eight responses were received from the 159 UK registered shipping companies, Port Authorities and Pilots Association to whom

¹⁹ <https://www.gov.uk/government/publications/better-regulation-framework>

²⁰ <https://www.gov.uk/government/publications/the-magenta-book>

²¹ <https://www.parismou.org/publications-category/annual-reports>

²² <https://www.emsa.europa.eu/thetis.html>

it was sent. Of those responses, no new information was received that indicated a significant change to the 2011 Regulations would be required. The MCA concluded a further consultation to inform this PIR would be disproportionate. This is firstly due to the limited evidence base provided by, and absence of quantitative responses to, the 2016 PIR stakeholder engagement. Secondly feedback is provided by the ongoing and regular contact the MCA have with stakeholders through the survey and inspection regime as well as the system of MCA Customer Service Managers assigned to each ship owner with vessels registered on the UK flag.

3. To what extent have the policy objectives been achieved?

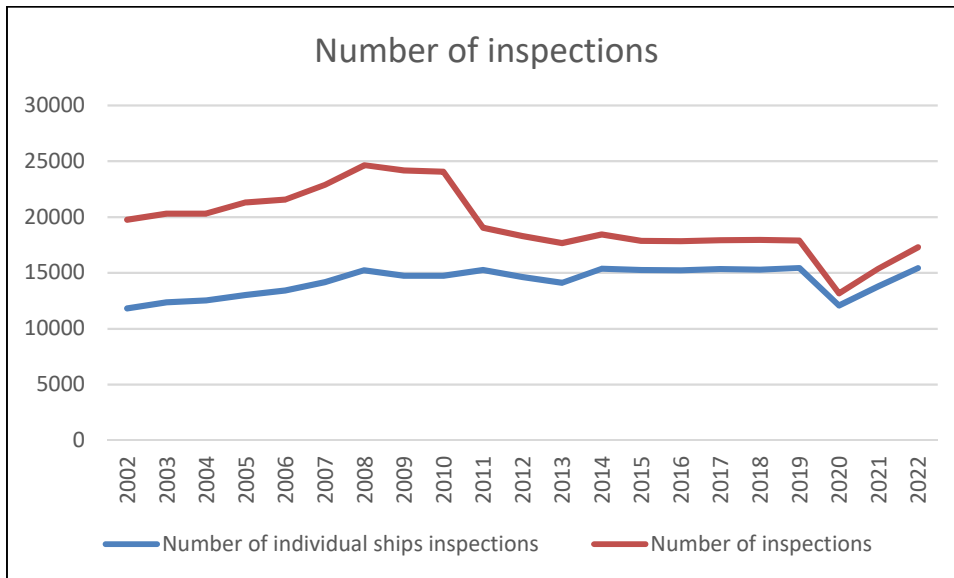
Overall, the policy objectives have been achieved.

Objective 1: To improve the control of foreign flagged ships calling at ports and anchorages in the UK by focusing inspections on high-risk ships so that they are inspected, in depth, at frequent intervals. The port State can require the owner to take actions to bring the ship and its crew in compliance with international standards.

The data created and shared on ship and company performance within the entire Paris MoU region has permitted highly accurate corroboration between Member States which has allowed for effective targeting of any vessels of interest. Additionally, this assists in the planning of the deployment of surveyor resource. It has also allowed better information sharing between the Paris MoU signatories highlighting unexpected issues onboard. For example, a crew member complaint or a report from the pilots of a country are disseminated amongst the Member States and changes the “priority” of a vessel, therefore the vessel is identified as a risk to all even if it changes port within the region at short notice.

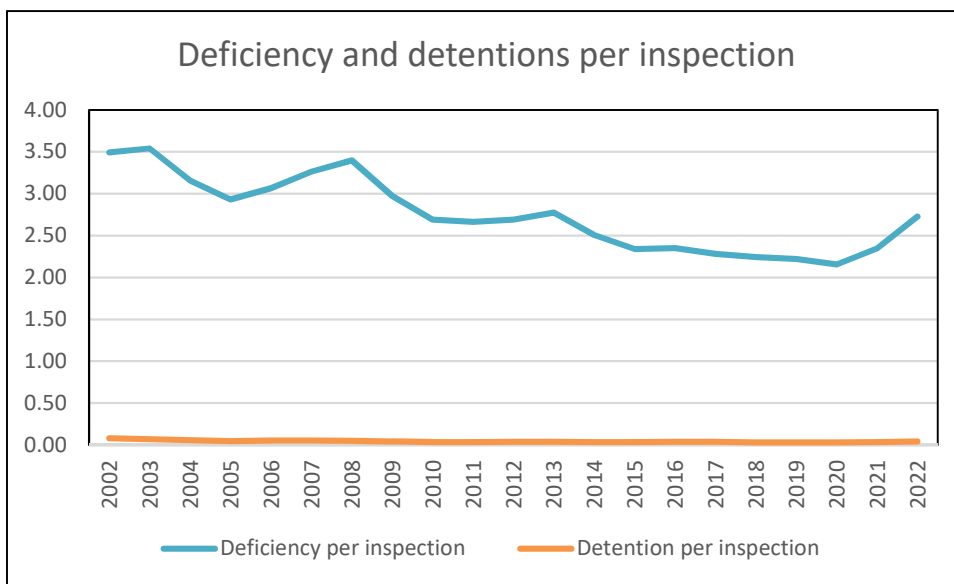
The UK is allocated a “fair share” target of “Priority I” and “Priority II” inspections (based on risk and as defined in the Paris MoU text) each calendar year, proportioned within the Paris MoU area based on ship calls to the country. This compares to pre-2011 where the obligation on the UK was to inspect 25% of foreign flagged vessels calling at UK ports in a year with no priority information, meaning vessels were selected randomly rather than on a risk basis. The 2011 Regulations implement this “fair share” requirement in regulation 4.

Since 2011, there has been a decrease in the number of inspections taking place across the Paris MoU (see graph 1). Over the same period, the number of individual ships inspected has remained broadly constant (excluding 2020, 2021 and 2022 as an outlier due to COVID-19). This shows that fewer individual ships were inspected repeatedly.



Graph 1: Number of inspections carried out across Paris MoU states, 2002 to 2022 (Paris MoU data)

The annual rate of inspections which found deficiencies or resulted in detentions slightly declined (see graph 2). The average number of deficiencies found per inspection and the average number of detentions per inspections both decreased slightly from the period 2002-2010 and the period 2011-2019 (see table 1) (excluding 2020, 2021 and 2022 as outliers). However, the downwards trend in number of deficiencies began before 2011 so is likely influenced by external factors.



Graph 2: Inspection outcomes across Paris MoU states, per inspection, 2002-2022 (Paris MoU data)

| | Deficiency per inspection | Detention per inspection |
|------------------|----------------------------------|---------------------------------|
| 2002-2010 | 3.17 | 0.05 |
| 2011-2019 | 2.45 | 0.04 |

Table 1: Inspection deficiencies or detention per inspection, 2002-2021 (Paris MoU data)

This suggests that, despite targeting higher risk vessels, the introduction of the risk-based inspection requirements has not resulted in deficiencies being discovered more frequently.

Objective 2: To use the system for risk-based inspections to reduce the frequency and therefore the burden of inspections on low-risk ships.

Noting that prior to the 2011 Regulations implementation the UK had to inspect 25% of arrivals, a move to the “fair share” system (introduced by the 2011 Regulations) has reduced the burden on UK authorities of inspecting vessels. The Paris MoU provides a clear framework to operate the inspection regime in and provides information sharing from other Member States to target the vessels to best effect so that the highest risk ships can be addressed, thus avoiding duplication of effort and ultimately making UK waters safer as the inspector resource is prioritised towards the highest risk vessels. As an example, due to the targeting system, vessels which were inspected the week previously in France will not be targeted again, and a vessel that hasn’t been seen in the region will take the priority. The Paris MoU website includes the risk calculator for vessels²³.

The information sharing and targeting allows for vessels in the regime to be inspected via a priority system which ensures that ships are consistently inspected rather than the “same” ships being repeatedly inspected by PSC. Thus, the introduction of the ‘fair share scheme’ as implemented in the 2011 Regulations has also reduced the inspection burden on vessels; as low priority vessels are inspected less frequently (every 36 months for periodical inspection within the Paris MoU region), and higher priority vessels are subject to appropriate scrutiny (targeted every 6 months for periodical inspection within the Paris MoU region), with an effective tracking method ensuring these dates are flagged up accordingly. This system ensures that all vessels are considered, not just vessels which are easiest for the port State to target (location, port stay etc) to meet their previously required 25%. This also creates a transparent framework fairly undertaken so vessels can be confident in the regime and the benefits it brings for those vessels that demonstrate high compliance with the international safety standards.

Under the Paris MoU, a low-risk ship, considered to be a Priority II, is required to have an inspection every 36 months within the region. In comparison, a high-risk ship, Priority I, is required to have an inspection every 6 months and is automatically subject to the most rigorous inspection type (known as an expanded inspection). As any vessel entering a UK port that is due an expanded inspection is required to stay in port for the duration of these inspections (at least 12 hours), notify the MCA of their arrival, and do the relevant admin work, low-risk vessels benefit from a reduced inspection burden due to their good safety record.

Data from the Paris MoU annual reports²⁴ has been collated to show the average number of inspection commitments required by the UK. The table shows that following the introduction of the fair share arrangement as introduced by the 2011 Regulations the number of inspections that the UK was required to conduct on average year on year has reduced from 1610 to 1435. This reduction does not reflect a reduction in effort or safety but is representative of an increase in data sharing allowing for the effective management and targeting of vessels in need of inspection at intervals that are derived by the performance of said vessels at previous inspections. The low number of inspections in 2020 and 2021 are due to the

²³ <https://www.parismou.org/inspections-risk/library-faq/ship-risk-profile>

²⁴ <https://www.parismou.org/publications-category/annual-reports>

COVID-19 pandemic impacting vessel movements as well as the ability of inspectors to travel. Thus, inspections and vessel numbers were unnaturally reduced.

The UK has not always achieved its inspection target due to the specialist nature of the role meaning there is a corresponding issue with MCA surveyor recruitment and retention. However, the MCA are aware of the recruitment gap and have a continuous and ongoing recruitment campaign and currently have several inspectors obtaining the required training.

Data from the THETIS database²⁵ shows that the UK performs relatively well in meeting their inspection targets compared to other countries. However, it is recognised that several other Member States have been unable to meet their fair share targets and discussions are ongoing with a view to evaluate the fair share target calculation methodology. More up to date data (2020-2021) has not been used, as they are outliers due to COVID-19 impacting vessel movements as well as the ability of inspectors to travel. 2022 data is not available through the Paris MOU reports.

| | Average number of inspections per year | Average number of inspections committed to per year |
|------------------|---|--|
| 2002-2010 | 1,769 | 1,610 |
| 2011-2019 | 1,376 | 1,435 |

Table 2: average number of inspections per year

Objective 3: To prevent persistently substandard ships from trading to ports of Member States.

If a vessel jumps detention by sailing away without being released or has had multiple detentions in a specified time period, that vessel is banned from entering ports and anchorages in the Paris MoU regime for a specified time period which can only be achieved by the sharing of data as introduced by the 2011 Regulations. The detentions that would trigger this can come from any Member State in the region, resulting in a collective effort to prevent substandard ships from trading to ports of Member States via the inspection regime. The UK continues to inspect and detain vessels with deficiencies, contributing to this objective. The UK and Gibraltar have administered 175 detentions²⁶ under the inspection regime from 1 January 2016 until 31 December 2022 on foreign flagged vessels in their waters. These detentions contribute to preventing substandard vessels from trading to ports of Member States.

²⁵ Data not published.

²⁶ Data has been provided by the MCA inspection team.

Sign-off for Post Implementation Review: Director, UK Maritime Services, MCA and Minister

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: Katy Ware

Date: 04/12/2023

Signed: Davies of Gower

Date: 05/04/2024

4. What were the original assumptions?

The original impact assessment²⁷ estimated a total net present value of £2.93m and a business net present value of £0.59m over a ten-year appraisal period of 2011 to 2020.

The costs are outlined in the table below:

| Cost | Cost to | Ongoing or one off | Low | Central | High |
|---|---------|--------------------|----------|----------|----------|
| Providing additional information | Ports | Ongoing (per year) | £16,000 | £50,000 | £ 88,000 |
| System upgrade | Ports | One off | £149,000 | £157,000 | £165,000 |
| System upgrade | MCA | One off | £384,000 | £384,000 | £384,000 |
| System maintenance cost | MCA | Ongoing (per year) | £48,000 | £ 48,000 | £48,000 |
| Standby cover to MCA surveyors for weekend work | MCA | Ongoing (per year) | £180,000 | £180,000 | £180,000 |

Non-monetised costs included costs to foreign flagged vessels, additional inspector costs for the MCA, and familiarisation costs to industry.

The following scenarios were used (note this is referring to ship calls, not individual ships who may be regular callers):

| | Low | Central | High |
|---|---------|---------|---------|
| Estimated arrivals of foreign flagged ships excluding regular ferry services in each year | 62,730 | 67,000 | 71,050 |
| Departures of foreign flagged vessels on regular passenger ferry services in each year | 22,300 | 22,300 | 22,300 |
| Number of notifications that would need to be made by UK ports each year | 170,000 | 179,000 | 187,000 |

Comparing this to actual statistics²⁸, these estimates are overestimates for the period 2011 to 2020 when roll on roll off ('roro') vessels are excluded (as they were in the original impact assessment). If roro vessels are included, then these numbers are an underestimate. However, as estimates they performed well, with actual data within +/-20% of the original estimates.

| | Central | Actual, excluding roro | Actual, including roro |
|---|---------|------------------------|------------------------|
| Estimated arrivals of foreign flagged ships excluding regular ferry services in each year | 67,000 | 58,000 | 69,600 |
| Departures of foreign flagged vessels on regular passenger ferry services in each year | 22,300 | 22,900 | 22,900 |
| Number of notifications that would need to be made by UK ports each year | 179,000 | 161,900 | 185,100 |

²⁷ https://www.legislation.gov.uk/ukia/2011/409/pdfs/ukia_20110409_en.pdf

²⁸ PORT0601, statistics produced by Department for Transport. This data is not published and is not considered commercially sensitive.

Original assumptions included that 60 surveyors would work one week in four on the rota for inspections. In practice, there are 96 qualified inspectors in a rota working one week in every five.

No benefits were monetised, and unmonetised benefits included more effective control of foreign flagged vessels, efficiency gains, and removing competitive advantage for owners maintaining substandard ships by reducing the incentive to take inappropriate risks.

5. Were there any unintended consequences?

The 2011 Regulations have been in force for over 12 years and during that time the MCA have not identified any unintended consequences of complying with them. Indeed, since the introduction of the 2011 Regulations, the UK has broadly successfully conducted the inspection regime in compliance with the 2011 Regulations and the 2009 Directive (COVID-19 pandemic notwithstanding on the Fair Share Target and recruitment and retention issues of surveyors to conduct the work).

The MCA has not identified nor had any stakeholder feedback that has highlighted any unintended consequences.

6. Has the evidence identified any opportunities for reducing the burden on business?

No opportunities for reducing the burden on business have been identified. The 2011 Regulations were designed to reduce the burden on low-risk ships whilst focussing resource on high-risk ships and ensure that foreign flagged vessels are held to the same standards in UK ports as UK vessels are held to in international ports. Reducing the inspection requirement further, whilst it may reduce the burden to business, would not be acceptable as it would not achieve the policy objective of ensuring that high-risk vessels are inspected regularly to ensure compliance with safety standards.

Any departure from compliance with the 2011 Regulations would lessen the defence against substandard ships and result in an increased risk and therefore, the MCA consider that there is no scope for reducing the burden on business.

The 2016 PIR found that no lessons had been learnt from the implementation of the 2011 Regulations, and no issues had been raised via the stakeholder engagement undertaken to inform that PIR.

7. How does the UK approach compare with the implementation of similar measures internationally, including how EU Member States implemented EU requirements that are comparable or now form part of retained EU law, or how other countries have implemented international agreements?

Port State control of the global shipping fleet is internationally recognised as being most effective when states harmonise their efforts and work together, as evidenced by IMO Resolution A1155(32) PROCEDURES FOR PORT STATE CONTROL.

There are 9 regional agreements for port State control worldwide showing the global efforts to achieve this, all of which base their operations on IMO Resolution A1155(32). The Paris Memorandum of

Understanding is the longest running of such regional agreements and the UKs approach as committed members aligns with the Paris MOU requirements. These Paris MOU requirements are based upon the IMO resolution for global harmonisation. EU Member States implement the Paris MOU requirements via the EU Directive, which is aligned with the IMO resolution and the Paris MOU requirements. The Paris MOU Agreement can only work if all Member States have comparable training, standards and procedures, as it relies on international co-operation to share the inspection effort and maintain the quality of the inspections. Members all commit to the same inspector training, inspection processes, reporting and procedures as part of their member obligations. It is this that allows confidence in the system that a vessel inspected by, for example, France, has been done to the same level of rigor as that of the UK and therefore the UK is free to focus on targeting other vessels in their share of the burden. The Secretariat of the Paris MOU conducts "Peer Reviews" (audits) to ensure this is maintained. This leads the MCA to deduce that many Member States have followed suit in their implementation of the Paris MOU requirements. This is further evidenced by the fact that being a regional agreement with collectively shared targets for inspecting vessels and the sharing of data requires a methodical approach to the data entry to the THETIS database that can only be most efficiently achieved by a harmonised approach. Additionally, the Paris MoU also has non-EU Member States (Canada, Norway, Russian Federation (currently suspended indefinitely) and Iceland) who implemented the Paris MoU directly into their national laws.

For example: -

Norway

The Norwegian Maritime Authority's Regulations can be found [here](#).

Germany

The German Maritime Authority's Regulations can be found [here](#).

Summary

- Post Implementation Review:
 - The obligation for this post implementation review is contained in the 2011 Regulations.

- Territorial Extent and Application of the Regulations
 - The 2011 Regulations apply to all of the United Kingdom, and extend to England and Wales, Scotland and Northern Ireland. Detailed application provisions are contained in regulation 3.

- Recommendation:
 - Amend – Overall, the 2011 Regulations are meeting their objectives and are fit for purpose, however, the MCA recommend that amendment is required to bring it up to date with regards the Conventions covered by the Paris MoU.

- Cost Summary:
 - The assumptions underpinning the implementation of the 2011 Regulations that they would realise a business net present value of £0.59m over a ten-year appraisal period cost/benefit appears to be reliable.

- Proportionality:
 - Low – The MCA have adopted a proportionately light touch to this review. The 2011 Regulations have been in effect over 10 years. They have been working effectively and any issues would have arisen and been acknowledged in that time.

- Lessons Learned:
 - There do not appear to be any significant lessons for future impact assessments arising from this PIR. The evidence gathered for this PIR has been appropriate as no new evidence has come to light to indicate a significant change is required to the 2011 Regulations aside from the references to international Conventions mentioned above.
 - Historical failure to meet the obligations were due to MCA surveyor recruitment and retention issues rather than any failure of the 2011 Regulations themselves.

- Next Steps:
 - The MCA have recommended that the 2011 Regulations require minor amendment and a project to undertake that change has been commissioned with an anticipated laying date of Spring 2025.

Annex 1 – Paris Memorandum of Understanding (Paris MoU)

Paris MoU

The IMO recognises the importance of Port State Control Regional Agreements, and there are 9 such memorandum of understanding's globally (with US Coastguard as an unofficial 10th). The UK sits geographically within the Paris MoU region and is a member of this MoU. PSC inspections are often coordinated on a regional basis to improve effectiveness. In this case, the 1995 and 2009 Directives draw heavily on the experience of the Paris MoU, an administrative agreement established in 1982 whose signatories share inspection data, apply common procedures, and take decisions through an executive Committee at which all signatories and the European Commission are represented. Current signatories to the Paris MoU consist of 21 EU coastal States, plus Canada, Croatia, Iceland, Norway, the Russian Federation and the UK.

Role of port State control

PSC is a defence against ships registered with flag States which fail to enforce compliance with international standards for safety, pollution prevention and crew working and living conditions on ships on their registers. Should an incident such as a grounding, sinking or pollution incident occur within regional waters, the negative outcome will impact the port State rather than the flag State; therefore, it is in the port States' interests to check the effectiveness of the flag State implementation. The standards to be enforced are contained in relevant Conventions of the International Maritime Organization and the International Labour Organization.

The responsibility for compliance lies, in the first instance, with the ship owner or operator. The duty of the flag State, or classification society working on behalf of the flag State, is to enforce standards by a regime of regular surveys and certification. A failure on the part of a number of flag States to fulfil this duty requires a second line of defence by States whose ports are visited by seagoing ships that are registered with other flag States. A port State may require ships registered with other flag States to rectify deficiencies revealed during inspection and may detain ships in port for this purpose if necessary. PSC inspections do not substitute for flag State surveys and responsibility for substandard ships lies with the flag State.

Port State control in the European Union

Following the grounding of the Amoco Cadiz in 1978, the European Council called on the European Commission to prepare proposals to reduce oil spills. A subsequent grounding of a fully laden oil tanker the Braer off the Shetland Islands in 1993 led to the adoption of a European Council resolution setting an objective of stricter inspections to reduce or eliminate substandard ships from waters of EU Member States. As a result, the 1995 Directive was adopted. Further incidents, in particular the severe sea and coastal pollution associated with the structural failure and loss of single hull oil tankers the Erika off the coast of France in 1999 and the Prestige off the coast of Spain in 2002, led to a programme of European legislation. Measures that were introduced in the European Union whilst the UK was still a member include changes in PSC, the phasing out of single hull oil tankers, and the introduction of a surveillance system for monitoring traffic in waters of EU Member States. A package of 8 measures known as the Third Maritime Safety Package was introduced. The Third Maritime Safety Package included the 2009 Directive, which replaced the 1995 Directive.

The 2009 Directive introduced a risk-based inspection regime for the control of foreign flagged ships and strengthened sanctions that may be applied to substandard foreign flagged ships. It also allows the European Commission to set and monitor inspection commitments of EU Member States and monitor ship calls at ports of EU Member States. Since the UK remains a signatory to the Paris Memorandum of Understanding, the processes and policies of which the 2009 Directive implemented, the UK continues to commit to and apply the regime. It is no longer subject to EU monitoring but is still subject to Paris MoU monitoring in lieu of EU monitoring.