

# INDECO

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## CIRCULAR 1A/2010

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### VESSELS' DETENTION FOLLOWING PSC INSPECTION AND SANCTIONING PROCEDURE: A GENERAL UPDATE OF YEAR 2009.

Following the information provided in our CIRCULAR 2A / 2008, the Spanish Government has continued to apply strictly the Royal Decree 91/2003 concerning PSC inspections.

In 2009, 129 vessels were detained, out of 2,172 inspections. That is 5.9% of the vessels were detained last year, which means a decrease of 2.7% in detentions compared to previous years.

Notwithstanding this detention decrease, Spain stands today on the first place of detentions among the 27 countries that are part of the Paris Memorandum.

There are five Ports which together carry out 50% of the detentions, which are the following:

- Castellon with 22 detentions (17%),
- Algeciras with 13 detentions (10%),
- Las Palmas de Gran Canarias with 12 detentions (9%),
- Barcelona with 11 detentions (8%), and
- Alicante with 8 detentions (6%).

The next Ports would be Ceuta, Santander and A Coruña, representing altogether 12% of the detentions (4% each), Cartagena and Vilagarcia de Arousa with 6% of the detentions (3% each), Gijon, Malaga and Marin with 6% of the detentions (2% each).

On the other hand, in 2009 there were also Ports where no detentions were carried out at all, such as Almeria, Carboneras, Garrucha, Motril, Palma de Mallorca and Valencia.

Other interesting facts are related to the months of major detentions, which are May and November with 13% of the detentions each, February with 12% and March with 10%. Together they represent almost half of the annual detentions (48%).

Regarding flags, the ones with most vessels detained last year were:



Panama, 17% (23 detentions),



Malta 9% (12 detentions),



Antigua & Barbuda 6% (9 detentions),



St. Vincent & Grenadines 5% (7 detentions),



Comoros 4% (6 detentions),



St. Kitts –Nevis 3% (5 detentions),

Turkey, Liberia and Netherlands have 3% of the detentions each. All together these flags represent a 53% of the annual detentions.

In our experience as P&I Correspondents and our daily legal practice regarding vessels' detentions, we highly recommend the following steps, if any of your vessels is detained:

- ✓ Informing your local correspondent as soon as possible. A PSC detention can lead to an Administrative Sanctioning Procedure and the sooner the matter is handled the better, in order to avoid any delays in the vessel's schedule.
- ✓ If an Administrative Sanctioning Procedure is started, we recommend instructing an independent inspection on behalf of Owners. This could provide Correspondents / Lawyers with further

evidence that can then be alleged within the sanctioning procedure, as well as to have legal grounds to ask for a reduction of the possible final fine imposed or even request the non imposition of fines.

- ✓ Prepare a file with the necessary documentation. If there is no possibility of appointing a surveyor, it is recommended to provide the local correspondent with the necessary documentation that can be used in your defence. Of course, the documentation required will vary in accordance with the alleged deficiencies found.

It is also wise to remember that if the vessel has suffered an accidental damage / incident while heading towards a Spanish Port, the following steps should be undertaken – and could help to avoid a PSC detention (ANNEX VI R.D.91/2003):

- Notification to the Flag State and their designated inspectors responsible of the issuance of the certificates.
- Informing the Spanish Port Authorities about the details of the incident / damage and providing the necessary information for the notification to the Flag State.
- Undertaking the necessary measures to rectify the incident / damage, and approved by the Maritime Administration.

Should ship owners or operators have any queries in respect of any of the subject informed, they should not hesitate to contact us.

<b>Further information can be obtained from INDECO</b>
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