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PORT STATE CONTROL SYSTEM INTERMS OF 1982 UNCLOS AND ITS PROBLEMS IN TURKEY*

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ABSTRACT

Maritime transportation which has the largest share in international trade, must have standards related lives, merchandise and environmental issues. Whether these standards are primarily studied to provide or in the process of time this control manners have disabled due to the some reasons, a new control method is researched with environmental disasters that happened in the past. After UNCLOS of 1982 (United Nations Convention on the law of the Sea) was adopted by countries, binding articles in the convention occasioned affective role, by port state control called last safety net, in terms of human life, merchandise and environmental safety and security at sea.

However the concept of port state was not defined in UNCLOS, port state control definition is attributed in articles 25, 211, 216, 218, 219,220,226. Vessels which are one of the important components of the maritime trade have been inspected by visited countries for standard transportation after Paris Memorandum with 1982 UNCLOS. These countries have created unions with each other like Paris MOU (Memorandum of Understanding) due to affective control system. Turkey has adhered Mediterranean and Black sea MOU because of the it's coastline in nine MOU in the world and inspected vessels according to these MOUs and domestic legislation. In this context port state control system inspections are carried by Port State Control Officers (PSCO) exists within in the structure of Ministry of Transport, Maritime Affairs and Communication.

In this study, the concept of port state control is analyzed with regard to UNCLOS, the key disputes of Turkey Port State Control System has tried to find out through the experts opinions by using Delphi method.

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STRUCTURED ABSTRACT

Maritime transportation has an important share interms of international transportation. Many judicial regulations and enforcements in order that navigation of ships are implemented by port states and international organizations. These legal regulations are formed by International Maritime Organization and International Labor Organization, and port states are laid responsibilities by these mentioned organizations.

The concept of port state occurred for the first time in "International Convention for the Prevention of Pollution from Ship" negotiations as a formation having juridical power differently from the concept of coast state in early 1970 and then the Conference of Third Law of the Sea giving shape to the United Nations Convention on the Law of the Sea dated 1982. (Anderson, 1999: 328). Subsequently, these studies make some enforcements whole maritime transportation. Specific obligations of a port State include inspection of foreign ships calling at their ports, exercising control measures such as detection of deficiencies, detention, banning, directing that a ship not leave the port until deficiency (ies) detected are rectified etc. (Usoro, 2014: 6). Following articles can be given as examples for Port State Enforcements according to Churchill and Lowe (as cited in Molenaar, 2007: 229):

- A treaty, whatever its underlying rationale;
- The universality principle, which relates to activities directed against the interests of the international community regardless of where the activity takes place;
- The effects or impact principle, which covers extraterritorial activities that have a significant effect on the state exercising jurisdiction;
- The protective or security principle, which is similar to the effects or impact principle with the difference that the activities affect the vital interests of a state;
- Interests of the international community; or
- A combination of international community interests on the one hand and the effects or impact principle, or the protective or security principle on the other hand.

Port state jurisdiction and port state control are differently concepts. Under Port state control, the port state limits itself to taking administrative measures such as detaining a ship in a port until corrective measures have been taken or ordering it to proceed to the nearest shipyard for repairs. In the case of port state control, unlike port state jurisdiction, the port state does not prosecute the vessel for an alleged breach of its legislation concerning the prevention of vessel source pollution and safety of shipping. The prosecution of foreign ships is the principal characteristic of port state jurisdiction, although it is to be noted that port state jurisdiction is a much broader notion than port state control (Bang and Jang, 2012: 170).

United Nations Convention on the Law of the Sea is not discriminate concerning port state or coastal state. Also there are not any

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instruments about different points between port state or coastal state concepts It is seen that the concepts of port state and coast state are used in each other's places in defining the authorization of states on foreign ships situated on ports. Port state definition is attributed in articles 25, 211, 216, 218, 219,220,226 in United Nations Convention on the Law of the Sea.

It is tried to determine main problems of Port state control system created in line with Mediterranean and Black Sea MOU which are being applied in Turkey in our research. The purpose of research is to determine the problems of port state control system problems of Turkey and offer recommendations regarding solutions of these problems. At the process of research Between the experts, regarding the most important problems for the port state controls that are being applied in Turkey, considering the consensus measure, it can be seen that there are not any consensus in first consensus tour. After completion of first tour, regarding the most important problems for the port state controls that are being applied in Turkey, considering the consensus measure, it can be seen that there are only one consensus one the subject of first article, inability of branching in second consensus tour. In accordance with the subject of port state system problem in Turkey, consensus were being met on the subject of "inability of branching." by all of the experts.

During the execution of the maritime commerce, states have significant roles within the framework of laws and legislations and based on their port state authorities they are controlling the vessels one of the dynamics of the maritime commerce and within this context they are preventing the nautical pollution and reducing the life and asset loss. Port state controls that are being applied on high standards will create maritime transportation operations with high standards.

Keywords: Port State Control, United Nations Convention on the Law of the Sea, Memorandum, Delphi Method.

1982 TARİHLİ BİRLEŞMİŞ MİLLETLER DENİZ HUKUKU SÖZLEŞMESİ AÇISINDAN LİMAN DEVLETİ DENETİMİ SİSTEMİ VE TÜRKİYE'DEKİ SORUNLARI

ÖZET

Uluslararası ticarete en büyük paya sahip olan denizyolu taşımacılığının can, mal ve çevre konularında standartlara haiz olması gerekmektedir. Bu standartlar, öncelikle bayrak devletlerinin denetimleriyle sağlanmaya çalışılmış olsa da, zamanla bu denetim yolu çeşitli sebepler ile işlevliğini yitirmiş, geçmişte yaşanan çevresel felaketler ile de yeni bir denetim yöntemi aranmaya çalışılmıştır. Ülkelerin 1982 tarihli Birleşmiş Milletler Deniz Hukuku Sözleşmesi' ni (BMDHS) kabul etmesi ile birlikte sözleşmede yer alan bağlayıcı hükümler, son emniyet ağı olarak adlandırılan liman devleti denetimlerinin denizciliğin can ve mal emniyeti ve güvenliğinin yanında çevre kirliliği bağlamında da etkin bir rol üstlenmesine sebep olmuştur.

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1982 tarihli BMDHS' de, liman devleti tanımı yapılmamıştır ancak liman devleti kontrollerine madde 25, 211, 216, 218, 219, 220, 226' da atıf yapılmaktadır. Sözleşme ile birlikte Paris Bölgesel Anlaşmasının varlık kazanmasıyla, deniz ticaretinde önemli bir bileşen olan gemiler, standart bir taşımacılık faaliyeti gerçekleştirmek için, sefer yapacağı yabancı ülkelerin denetimleri altına girmiştir. Bu ülkeler denetim sisteminin daha etkin bir hale gelmesi için aralarında Paris Bölgesel anlaşmasına benzer birliktelikler oluşturmuşlardır. Türkiye coğrafi konumu gereği hem Akdeniz hem de Karadeniz' e kıyısı olan bir ülke olduğundan Dünyada yer alan 9 bölgesel anlaşmadan Akdeniz ve Karadeniz Bölgesel Anlaşmasına taraf olmuş olup, limanlarına gelen yabancı bayraklı gemileri bu bölgesel anlaşmalar ve kendi iç mevzuatında yer alan hukuksal düzenlemeler ile denetlemektedir. Bu bağlamda oluşturulan liman devleti kontrolü sistemi denetimleri Ulaştırma Denizcilik ve Haberleşme Bakanlığı bünyesinde görevli Denizcilik Sörvey Mühendislerince gerçekleştirilmektedir.

Bu çalışmada; liman devleti kontrolü kavramı 1982 tarihli BMDHS açısından incelenmiş, ülkemizde uygulanmakta olan liman devleti kontrolünün başlıca sorunları, uzmanların görüşleri doğrultusunda delphi tekniği kullanılarak ortaya konmaya çalışılmıştır.

Anahtar Kelimeler: Liman Devleti Kontrolü, Birleşmiş Milletler Deniz Hukuku Sözleşmesi, Bölgesel Anlaşma, Delphi Tekniği

1. INTRODUCTION

There are many legal regulations and enforcements in order that ships can carry out their voyages in international standards. While these legal regulations are take place in UNCLOS dated 1982; they are formed by organizations such as International Maritime Organization and International Labor Organization, and states having port are laid responsibilities by these mentioned organizations. States having port found place in literature as concept of port states, and they have become an important part of ship control system. In past years of ship controls, especially when flag countries of ships are arbiters, port state controls started to play a role over time following UNCLOS agreement dated 1982.

The concept of port state occurred for the first time in MARPOL negotiations as a formation having juridical power differently from the concept of coast state in early 1970 and then the Conference of Third Law of the Sea giving shape to the UNCLOS (Anderson, 1999: 328). The concept of jurisdiction of flag state also occurred with the concept of port state. Flag state; represents the relevant authority performing regulative rules on trade ships registered under its own flag (Ercan, 2010: 4). States usually grant their nationality to vessels by means of registration and by authorizing vessel to fly their flag. Thus expressions such as the "State of registration" or the "flag state" are synonyms for the State whose nationality the vessels bear (Churchill and Lowe, 1999: 257). As international rules show clearly, port state jurisdiction takes precedence of the flag state jurisdiction when ships are on port. Being preceded of port state power in comparison to flag state power on foreign ships also gives port state the right to perform international convention rules against ship (McDorman, 2000: 212).

1.1. The Concepts of Port State Jurisdiction and Port State Control

"Port state" in a broad sense encompassing prescriptive and enforcement jurisdiction over the port's own maritime zones (in its capacity as a coastal state) as well as in certain situations over

vessel activities on high seas and in the maritime zones of other coastal states (Molenaar, 2007: 227). Following articles can be given as examples for Port State Enforcements according to Churchill and Lowe (as cited in Molenaar, 2007: 229):

- A treaty, whatever its underlying rationale;
- The universality principle, which relates to activities directed against the interests of the international community regardless of where the activity takes place;
- The effects or impact principle, which covers extraterritorial activities that have a significant effect on the state exercising jurisdiction;
- The protective or security principle, which is similar to the effects or impact principle with the difference that the activities affect the vital interests of a state;
- Interests of the international community; or
- A combination of international community interests on the one hand and the effects or impact principle, or the protective or security principle on the other hand.

Aydın Okur (2008: 63), states that two ecole come to the forefront in terms of port state jurisdiction. Port state has full power on foreign ships situated on ports in the Anglo-American ecole. Port state has no power in cases regarding internal order of ship exclusively and not endangering the peace, comport and order of port in French ecole. When a crime committed such as not to endanger the peace or order of port state by a staff of ship, flag state authorities are allowed to deal with the case in general. When ship's captain or flag state consulate demand port state to give an intervention, it is seen that port state uses its jurisdiction. Anglo-American theory is accepted mostly in today's application. Specific obligations of a port State include inspection of foreign ships calling at their ports, exercising control measures such as detection of deficiencies, detention, banning, directing that a ship not leave the port until deficiency (ies) detected are rectified etc. (Usoro, 2014: 6).

It should be noted that PSC is not the same as port state jurisdiction (PSJ). Under PSC, the port state limits itself to taking administrative measures such as detaining a ship in a port until corrective measures have been taken or ordering it to proceed to the nearest shipyard for repairs. In the case of PSC, unlike PSJ, the port state does not prosecute the vessel for an alleged breach of its legislation concerning the prevention of vessel source pollution and safety of shipping. The prosecution of foreign ships is the principal characteristic of PSJ, although it is to be noted that PSJ is a much broader notion than PSC (Bang and Jang, 2012: 170). Port state control foresees that port(s) frequently visited by trade ships are controlled by state(s) in context of whether generally accepted rules are performed by trade ships in accordance with trade ships and international rules are reserved or not. In one sense, it is an application vesting to the port state the right to control flag control state (Akten and Koldemir, 2011: 92). The specific port state sanctions includes (Abdu, 1999: 3):

1. The inspection of ships certificates,
2. Physical inspection of the ships,
3. In addition, if warranted by evidence, detention of the ship.

Port state control is the last safety net. Safety net is a system established to prevent ships with low-standard in trade on the open seas. Port state control system started collaboratively with Paris Memorandum dated 26 January 1982 and hereafter the first steps of a system to work in one body were taken by signing Latin America Memorandum in 1992 (Acuerdo de Vina del Mar) and Asia-Pacific Memorandum in 1993. There are nine PSC MOUs with these memorandums and these are as follows:

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- Paris MOU
- Tokyo MOU
- Acuerdo de Vina del Mar
- Caribbean MOU
- Abuja MOU
- Black Sea MOU
- Mediterranean MOU
- Indian Ocean MOU
- Riyadh MOU

1.2. The Relation of Port State Control with UNCLOS dated 1982

There are no definitions of “port state” or “coastal state” in the United Nations Convention on the Law of the Sea or any other global instrument with universal participation (Molenaar, 2007: 227). It is seen that the concepts of port state and coast state are used in each other’s places in defining the authorization of states on foreign ships situated on ports. It is not belabored the legal character of port state independently from coast state in common law and the state powers on ships situated on ports are mostly considered as coast state power (Aydın Okur, 2008: 47). In UNCLOS dated 1982, the matter of port state attracts the attention. The way of agreement discussing the concept of port state is as follows:

Investigation of Article 25 - Rights of protection of the coastal State:

“In the case of ships proceeding to internal waters or a call at a port facility outside internal waters, the coastal State also has the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to internal waters or such a call is subject” (UNCLOS 1982, 18.06.2016).

In fact, this article regarding application of power also includes regulate jurisdiction of port state (Molenaar, 1998: 103). UNCLOS resulted in coastal nations having rather limited power in the control they could exercise over vessels navigating in their territorial seas; however, coastal nations were given express powers within the internal waters in which their harbors were located. Article 25(2) formally expressed this principle (Anderson, 2002: 3).

Investigation of Article 211 - Pollution from Vessels:

“States which establish particular requirements for the prevention, reduction and control of pollution of the marine environment as a condition for the entry of foreign vessels into their ports or internal waters or for a call at their off-shore terminals shall give due publicity to such requirements and shall communicate them to the competent international organization. Whenever such requirements are established in identical form by two or more coastal States in an endeavor to harmonize policy, the communication shall indicate which States are participating in such cooperative arrangements. Every State shall require the master of a vessel flying its flag or of its registry, when navigating within the territorial sea of a State participating in such cooperative arrangements, to furnish, upon the request of that State, information as to whether it is proceeding to a State of the same region participating in such cooperative arrangements and, if so, to indicate whether it complies with the port entry requirements of that State. This article is without prejudice

to the continued exercise by a vessel of its right of innocent passage or to the application of article 25, paragraph 2” (UNCLOS 1982, 18.06.2016).

211/3 article underlies the concept of port state jurisdiction. In other words, 211st article discusses legislative prerogative differently from juridical power of port state (Ozcayır, 2001: 80). This article gives port state the right to determine special conditions regarding foreign ships to enter into inland waters, ports or open coast terminals in purpose of preventing, reducing and controlling marine environment pollution, and coast state has the right to take necessary measurements to prevent any violation of conditions related to ships’ entering inland waters and touching at ports (Aydın Okur, 2008: 218,219). The intention of mentioned collaboration regulations are memorandums of understanding made for port state control and the regulations which does not bring new standards and harmonize the application of available rules and standards only (Molenaar, 1998: 104). However, according to Aydın Okur (2008: 220), it should be accepted that “collaboration regulations” in article 211/3 include the regional memorandums of understanding made for port state control.

Investigation of Article 216 - Enforcement with respect to pollution by dumping:

“Laws and regulations adopted in accordance with this Convention and applicable international rules and standards established through competent international organizations or diplomatic conference for the prevention, reduction and control of pollution of the marine environment by dumping shall be enforced:

(a) by the coastal State with regard to dumping within its territorial sea or its exclusive economic zone or onto its continental shelf;

(b) by the flag State with regard to vessels flying its flag or vessels or aircraft of its registry;

(c) by any State with regard to acts of loading of wastes or other matter occurring within its territory or at its off-shore terminals” (UNCLOS 1982, 18.06.2016).

Investigation of Article 218 - Enforcement by port States:

“When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State may undertake investigations and, where the evidence so warrants, institute proceedings in respect of any discharge from that vessel outside the internal waters, territorial sea or exclusive economic zone of that State in violation of applicable international rules and standards established through the competent international organization or general diplomatic conference.

No proceedings pursuant to paragraph 1 shall be instituted in respect of a discharge violation in the internal waters, territorial sea or exclusive economic zone of another State unless requested by that State, the flag State, or a State damaged or threatened by the discharge violation, or unless the violation has caused or is likely to cause pollution in the internal waters, territorial sea or exclusive economic zone of the State instituting the proceedings.

When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State shall, as far as practicable, comply with requests from any State for investigation of a discharge violation referred to in paragraph 1, believed to have occurred in, caused, or threatened damage to the internal waters, territorial sea or exclusive economic zone of the requesting State. It shall likewise, as far as practicable, comply with requests from the flag State for investigation of such a violation, irrespective of where the violation occurred.

The records of the investigation carried out by a port State pursuant to this article shall be transmitted upon request to the flag State or to the coastal State. Any proceedings instituted by the port State on the basis of such an investigation may, subject to section 7, be suspended at the request of the coastal State when the violation has occurred within its internal waters, territorial sea or

exclusive economic zone. The evidence and records of the case, together with any bond or other financial security posted with the authorities of the port State, shall in that event be transmitted to the coastal State. Such transmittal shall preclude the continuation of proceedings in the port State” (UNCLOS 1982, 18.06.2016).

This article activates the role of port state in order for applying international sewage disposal and pollution measurements (Anderson, 2002: 3). It is the most important article regulating the applying jurisdiction of port state in terms of ship-based pollution. In addition, it regulates applying power of port state on disposal violations made out of areas that port state has or authorized as a coast state. 1982 UNCLOS does not include explicit provision in terms of regulative jurisdiction of port state as a coast state regarding activities realized beyond areas that port state has or authorized as a coast state. However, while article 218/1 is in presence of a provision regulating the applying power of port state, it should be accepted that this article also includes regulative power of port state regarding violation of disposal of foreign ships realized in open sea or marine space of another state. Likewise, there is no other article including regulative power to constitute a basis for applying power given to port states with this article (Aydın Okur, 2008: 221,222).

While port state can use direct jurisdiction for violation of disposal realized in open sea according to article 218/1; when article 218/2 is examined, port state cannot use jurisdiction by itself as long as it is not a coast state which is affected by pollution when the violation realized in marine spaces of another coast state not in open sea. There should be a demand of relevant state for this case in order for port state can use any power (Aydın Okur, 2008: 223).

Even if this provision regarding that port state fulfills the demand for investigation in 218/3, is in presence of an article including obligation among provisions bearing arbitrary qualification in general; this obligation is eased with the phrase of “in an achievable scale” (Aydın Okur, 2008: 224).

Although the expression of prosecution “can be suspended” on request of coats state is used in article 218/4, it is accepted that port state has a suspension obligation in general (Aydın Okur, 2008: 225).

Investigation of Article 219 - Measures relating to seaworthiness of vessels to avoid pollution:

“Subject to section 7, States which, upon request or on their own initiative, have ascertained that a vessel within one of their ports or at one of their off-shore terminals is in violation of applicable international rules and standards relating to seaworthiness of vessels and thereby threatens damage to the marine environment shall, as far as practicable, take administrative measures to prevent the vessel from sailing. Such States may permit the vessel to proceed only to the nearest appropriate repair yard and, upon removal of the causes of the violation, shall permit the vessel to continue immediately” (UNCLOS 1982, 18.06.2016).

The authorization of port state to take administrative measure to prevent ship from sailing is considered as an “obligation” in this article. However, port states fulfill the obligation to take administrative measure “in an achievable scale”. The thing implied with administrative measure is measures such as retention before allowing ship to go closest repair shipyard. According to article 219, port states can use power on foreign ships violating rules and standards of international CDEM (Construction-Design-Equipment-Maintenance) especially standards related to safe navigation of ships and can disqualify these ships from sailing. With these comments, it should be remembered the condition that ship is situated in port with its own will in terms of using power in article 219, is not required as a qualification (Aydın Okur, 2008: 227,228).

“May” is used as verb other than “shall” in article 218 of the original text of UNCLOS dated 1982. In spite of article 218, “shall” helper verb is used other than “may” in article 219, this condition refers administrative measures which should be taken by states when the type of violation is determined (Ozcayır, 2001: 84).

Investigation of Article 220 - Enforcement by coastal States:

“When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State may, subject to section 7, institute proceedings in respect of any violation of its laws and regulations adopted in accordance with this Convention or applicable international rules and standards for the prevention, reduction and control of pollution from vessels when the violation has occurred within the territorial sea or the exclusive economic zone of that State.

Where there are clear grounds for believing that a vessel navigating in the territorial sea of a State has, during its passage therein, violated laws and regulations of that State adopted in accordance with this Convention or applicable international rules and standards for the prevention, reduction and control of pollution from vessels, that State, without prejudice to the application of the relevant provisions of Part II, section 3, may undertake physical inspection of the vessel relating to the violation and may, where the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with its laws, subject to the provisions of section 7.

Where there are clear grounds for believing that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation of applicable international rules and standards for the prevention, reduction and control of pollution from vessels or laws and regulations of that State conforming and giving effect to such rules and standards, that State may require the vessel to give information regarding its identity and port of registry, its last and its next port of call and other relevant information required to establish whether a violation has occurred” (UNCLOS 1982, 18.06.2016).

Equal treatment is made for national regulations of state and international rules in article, and any violation of relevant rules is enough to use power. As any violation is enough, any damage does not need to happen as well as there be no difference whether violation is disposal standards, navigation standards or CDEM standards. As it is seen, port state has largest applying jurisdiction because it is also a coast state (Aydın Okur, 2008: 230).

Investigation of Article 226 - Enforcement by coastal States:

“States shall not delay a foreign vessel longer than is essential for purposes of the investigations provided for in articles 216, 218 and 220. Any physical inspection of a foreign vessel shall be limited to an examination of such certificates, records or other documents as the vessel is required to carry by generally accepted international rules and standards or of any similar documents which it is carrying; further physical inspection of the vessel may be undertaken only after such an examination and only when:

(i) There are clear grounds for believing that the condition of the vessel or its equipment does not correspond substantially with the particulars of those documents;

(ii) The contents of such documents are not sufficient to confirm or verify a suspected violation; or

(iii) The vessel is not carrying valid certificates and records”

If the investigation indicates a violation of applicable laws and regulations or international rules and standards for the protection and preservation of the marine environment, release shall be

made promptly subject to reasonable procedures such as bonding or other appropriate financial security. (c) Without prejudice to applicable international rules and standards relating to the seaworthiness of vessels, the release of a vessel may, whenever it would present an unreasonable threat of damage to the marine environment, be refused or made conditional upon proceeding to the nearest appropriate repair yard. Where release has been refused or made conditional, the flag State of the vessel must be promptly notified, and may seek release of the vessel in accordance with Part XV” (UNCLOS 1982, 18.06.2016).

2. METHOD

In our research, it is tried to determine main problems of Port state control system created in line with Mediterranean and Black Sea MOU which are being applied in Turkey. The purpose of our research is to determine the problems of port state control system problems of Turkey and offer recommendations regarding solutions of these problems. 3-stage Delphi technique is used as research technique.

The universe of this research is 121 units of controllers that are working in connection with the Ministry of Transport, Maritime Affairs and Communications for the port state controls that are being applied in Turkey. The sample is the 49 maritime surveyor engineers that are authorized on the port state controls that are working at the places of duties of Ankara, İzmir, Trabzon, Gemlik, İstanbul, İskenderun and Sinop which are ministerial. During the study, the interviews that have been convened were being executed between the dates of April 3 and May 15. Delphi technique has been applied to the researchers on three levels. The open-ended question that has been addressed to the experts is as follows:

- What are the most important problems for the port state controls that are being applied in Turkey in your opinion?

In order to evaluate the obtained data from the research the application called “IBM SPSS Statistics 20” has been used. For the analysis of the data the frequency distribution, median, bandwidth analysis – difference between quartiles ($Q3 - Q1$), arithmetic average and standard deviation values were being used. In order to test the reliability of the scale, the reliability index (Cronbach Alpha) was being evaluated. The measures of consensus have been stated in Table 1. For the analysis of the research question; median, bandwidth, differences between quartiles ($Q3 - Q1$), arithmetic average, frequency distribution and standard deviation values were found. Here:

- (Mdn) Median Value: It represents the value for which 50% of observations a lower and 50% are higher.,
- Analyze of Ranges: Differences of quartiles ($DQ=Q3-Q1$),
- Frequency: 1-3 frequency; percent of marking 1,2 and 3 values/4 frequencies; percent of marking 4 value/ 5-7 frequencies; percent of marking 5,6 and 7 values,
- \bar{X} : Arithmetic mean
- SD : Standard deviation value

Table 1: Measures of Consensus

Consensus	Consensus Indicators
Match Criteria	If median ≥ 5 and DQ $\leq 1,5$ If median ≥ 5 and DQ $\leq 1,5$ and 5-7 frequency $\geq \%70$
Non Match Criteria	If median ≤ 3 and DQ $\leq 1,5$ If median ≤ 3 and DQ $\leq 2,5$ and 1-3 frequency $\geq \%70$

Source: Sahin, 2009: 130

3. FINDINGS

In this part our research, the findings arising from the analysis of the data that have been obtained with Delphi technique is being included.

3.1. First Consensus Findings

PSCO that are being included in our research three of them are oceangoing chief officer/engineers, seven of them oceangoing first officer/second engineers, nine of them are oceangoing masters and one of them is vessel construction engineer. Additionally, two of them are sea experienced between 0-2 years, six of them are between 2-4 years, seven of them are between 6-10 years and two of them are for ten or more years. Finally, one of them is surveyor experienced for 0-2 years, five of them are 2-4 years, two of them are 4-6 years, five of them are 6-10 years and seven of them are experienced for ten or more years.

On the other hand, Cronbach's Alpha reliability (consistency) index for the first questionnaire that have been applied has been found as 0,723.

During the first consensus tour, the arithmetical average, standard deviation, median, CAF, frequency distribution detail of answers of the participants for the question of "What are the most important problems for the port state controls that are being applied in Turkey in your opinion?" is stated in the Table 2.

Table 2: The Results of First Consensus Tour with Regard to PSC System Problems

No	Answers	\bar{X}	SD	Mdn	DQ	Frequency		Consensus
						1-3	5-7	
1	Inability of Branching	5,9	1,59	6,5	6	10	90	N/M
2	Lack of Expert Staff	5,1	1,86	5	6	10	65	N/M
3	Technical Incompetence	4,45	1,54	4	6	10	40	N/M
4	Safety Substructure	4	1,92	4,5	5	25	50	N/M
5	Inspections by Different department	3,25	1,74	3,5	6	50	25	N/M
6	Inadequacy of Education	4,35	2,41	5,5	6	40	60	N/M
7	Deficiency of Updated Legislations	5,1	1,71	6	6	10	70	N/M
8	Illegal Force from Others	4,55	1,85	5	6	25	65	N/M

Note: While DQ is increasing, participant opinions show variabilities. N/M: Non matched

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Between the experts, regarding the most important problems for the port state controls that are being applied in Turkey, considering the consensus measure, it can be seen that there are not any consensus. Considering the arithmetic average value, with 5,9 “Inability of Branching” article is the article that have the most points among the control problems of the port states and with this, considering the likert scale, 90% of the participants has given value between 5 and 7 and on the other hand, “Inspections by Different department” article has 3,25 arithmetic average and it is therefore the problem with the least points.

3.2. Second Consensus Findings

In the second consensus tour of the questionnaire it has been found that the Cronbach's Alpha reliability index is 0,759. On the other hand the details of the responses for the question of “What are the most important problems for the port state controls that are being applied in Turkey in your opinion?” that have given again is stated in Table 3.

Table 3: The Results of First Consensus Tour With Regard to PSC System Problems

No	Answers	\bar{X}	SD	Mdn	DQ	Frequency		Consensus
						1-3	5-7	
1	Inability of Branching	6,5	0,51	6,5	1	0	100	M
2	Lack of Expert Staff	5,35	1,39	5	4	5	65	N/M
3	Technical Incompetence	4,55	1,32	4	5	10	40	N/M
4	Safety Substructure	4	1,92	4,5	5	25	50	N/M
5	Inspections by Different department	3,85	1,14	4	5	45	25	N/M
6	Inadequacy of Education	4,80	1,96	5,5	6	25	60	N/M
7	Deficiency of Updated Legislations	5,10	1,71	6	6	10	70	N/M
8	Illegal Force from Others	4,95	1,15	5	4	10	85	N/M

Note: While DQ is increasing, participant opinions show variabilities. N/M: Non matched. M: Matched

Between the experts, regarding the most important problems for the port state controls that are being applied in Turkey, considering the consensus measure, it can be seen that there are only one consensus one the subject of first article, inability of branching. Considering the arithmetic average value, with 6,5 “Inability of Branching” article is the article that have the most points among the control problems of the port states and with this, considering the likert scale the 100% of the participants have valued this subject between 5 and 7 and on the other hand, “Inspections by Different department” article has 3,25 arithmetic average and it is therefore the problem with the least points.

4. RESULT

In accordance with the subject of port state system problem in Turkey, consensus were being met on the subject of “inability of branching.” by all of the experts. In addition, DQ value has resulted as “1” and this states that the opinion change is on a minimum. By stating “inability of branching”

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the port state authorities meaning that during their task, they are not only controlling the vessels with the foreign flags. On the other hand a problem stating as a system of port state, "Inspections by Different department" has less than 4 point average and within the general average of the group, it can be seen that it is not a significant problem. As a result of the research, it can be seen that Delphi technique helps to reach the stated purposes and in short, it can be seen that the biggest problem of the port state control system is the "inability of branching."

During the execution of the maritime commerce, states have significant roles within the framework of laws and legislations and based on their port state authorities they are controlling the vessels one of the dynamics of the maritime commerce and within this context they are preventing the nautical pollution and reducing the life and asset loss. Port state controls that are being applied on high standards will create maritime transportation operations with high standards.

Turkey, with both availability of Istanbul and Canakkale Strait or its location on Asia – Europe as a bridge, has an efficient share on the maritime commerce and the control of such commerce and realization on higher levels are the port state controls are being executed by the ministerial experts. Within this context it is stated by the experts that are creating a powerful link to the control stated the port state control problems and in order to solve such problems, studies should be executed and already available studies should be fastened. Especially forcing port state control personnel to execute different tasks should be banned with a new duty description within the context of a new legislation. Therefore, as it is stated above by the maritime surveyor engineer, the biggest port state control system problem shall be making progress on correction.

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