



Council of the
European Union

Brussels, 9 September 2024
(OR. en)

13157/24

Interinstitutional File:
2023/0165(COD)

TRANS 385
MAR 143
OMI 83
CODEC 1776
IA 172
ILO 14

OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/16/EC on port State control – Letter to the Chair of the European Parliament Committee on Transport and Tourism

Following the Permanent Representatives Committee meeting of 15 March 2024 which endorsed the final compromise text with a view to agreement, delegations are informed that the Presidency sent the attached letter, together with its Annex, to the Chair of the European Parliament Committee on Transport and Tourism (TRAN).



Brussels, 15/03/2024

Ms Karima DELLI
Chair of the Transport and Tourism Committee

European Parliament
Rue Wiertz 60
B-1047 BRUSSELS

Subject: Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/16/EC on port State control.

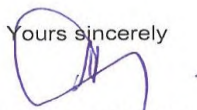
Dear Ms DELLI,

Following the informal contacts on this proposal between the representatives of the three institutions, the Permanent Representatives Committee today agreed with the final compromise text.

I am therefore now in a position to confirm that, should the European Parliament adopt its position at first reading, in accordance with Article 294(3) TFEU, in the form of the compromise text as set out in the Annex to this letter (subject to revision by the lawyer-linguists of the two institutions), the Council, in accordance with Article 294(4) TFEU, will approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the position of the European Parliament.

On behalf of the Council, I also wish to thank you for your close cooperation which should enable us to reach agreement on this file at first reading.

Yours sincerely



Pierre CARTUYVELS
Chair of the
Permanent Representatives Committee (Part 1)

Copy:

- Ms Adina VĂLEAN, Commissioner
- Ms Vera TAX, European Parliament Rapporteur

Rue de la Loi/Wetstraat 175 – 1048 Bruxelles/Brussel – Belgique/België
Tél./Tel. +32 (0)2 281 61 11

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2009/16/EC on port State control

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee¹,

~~Having regard to the opinion of the~~ **After consulting** the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Directive 2009/16/EC of the European Parliament and of the Council³ sets out rules on the system for port State control inspections, whereby eligible ships calling ~~in~~ at Union ports are inspected to verify if the competency of the crew on board and the condition of the ship and its equipment comply with the requirements of international conventions on the safety of life at sea ~~and~~, on the protection of marine environment **and on living and working conditions on ships of all flags**.
- (2) Directive 2009/16/EC is based on the pre-existing voluntary ~~intergovernmental~~ **agreement** of the Paris Memorandum of Understanding on port State control (Paris MOU) and the notions of a shared inspection burden, risk-based targeting of ships for inspections, harmonised inspections and the sharing of inspection results.
- (3) Since the Directive 2009/16/EC entered into force, there have been changes in the international regulatory environment (in particular in the Paris MOU and the International Maritime Organisation) and technological developments. Those changes as well as the

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ L 131, 28.5.2009, p. 57.

experience gained from implementation of Directive 2009/16/EC should be taken into account.

- (4) A number of international conventions have entered into force and been ratified by the Member States since 2011. These are the International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM Convention) and the Nairobi International Convention on the Removal of Wrecks (Nairobi Convention). Therefore, they should be included in the list of ~~the~~ Conventions covered by Directive 2009/16/EC, to allow them to be enforced as a ~~part~~**part of** the port State control system.
- (5) To allow for an ~~up-to-date~~**up-to-date** and harmonised system of port State control, it is necessary to have a swifter way to update the list of international conventions enforced by port State control without a need ~~for amending~~**to amend** the whole Directive. Therefore, once an international Convention has entered into force – meaning that it has reached an agreed level of ratification — and following its adoption by the Members of the Paris MoU as a relevant instrument, the list of Conventions in the Directive should be updated by the Commission.
- (5a) *The Hong Kong International Convention for the safe and environmentally sound recycling of ships will enter into force as of 26 June 2025. The present directive should provide for its enforcement.*
- (5b) *International agreements and conventions in fisheries such as the 2012 Cape Town Agreement, the Work in Fishing Convention (ILO C188) and STCW-F convention can improve the safety of fishing vessels and the working and living conditions of the fishermen on board and create a more level international playing field in this sector.*
- (6) Due to their small size, most fishing vessels in the EU operate in territorial waters, and are not susceptible to being inspected in foreign ports. This means that in general, only larger fishing vessels ~~above~~**of** 24 meters in length **and above, considering length as defined in the Cape Town Agreement of 2012** (which are also the fishing vessels ~~which are~~ most subject to international conventions) are likely to engage in international waters and call at ports ~~different~~**other** than those in the country where they are registered and therefore **to** be subject to PSC. As the majority of the international conventions applicable to larger fishing vessels are different to those ~~which~~**that** are currently enforced through port State control and to avoid undesirable ~~spill-over~~**spill-over** effects onto the current port State control system, a parallel system of port State control for fishing vessels is being proposed.

- (7) However, due to the patterns of fishing not all EU-Member States are visited by these larger fishing vessels. Therefore, a voluntary system for those EU-Member States that wish to carry out these inspections and which is *parallel and* separate from the current port State control regime is being proposed to allow for flexibility and the way that standards are developed in port State control. This system of port State control of fishing vessel of ~~over~~ 24 metres in length *and above* can therefore be developed organically by Member States, the Paris MoU and the Commission *without incorporating them into the current Paris MoU agreement in order to enhance cooperation on Port State control across the Union ports that receive such vessels and to enhance safety in the fishing industry, including the health and safety of the fishermen on board. A separate module for the existing inspection database should be developed to this end. This voluntary system could help Member States in the context of the ratification procedure of the Cape Town Agreement of 2012 on the Implementation of the Provisions of the 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977 (the ‘Cape Town Agreement’), prepare for its entry into force, as authorised by Council Decision 2014/195/EU of 17 February 2014, in order to establish the highest practicable standards for the safety of larger fishing vessels.*
- (8) The fair share mechanism provides a distribution of the inspection burden among the Member States of the Paris MOU. Each Member State is allocated a certain number of inspections – its inspection commitment or 'fair share' - to be carried out each year. Eligibility for inspection is primarily determined by the length of time ~~which has passed~~ since the last inspection *and in relation with the ship risk profile (SRP) which establishes the intervals between inspections and their scope.* Priority II ships may be inspected while Priority I vessels ~~shall~~*must* be inspected.
- (9) Member States are permitted *not to carry out* ~~to miss~~ a certain number of “Priority” inspections and still comply with their inspection commitment. However, for some Member States the number of ship calls that actually occur during a given year can either exceed or be less than the allocated inspection commitment. An alternative method of compliance to the fair share obligation for these (over-burdened or under-burdened) Member States was found to be inflexible, therefore it is necessary to align the provisions concerned with the revised Paris MOU provisions.
- (10) Member States are also allowed to postpone inspections of ships under certain circumstances, provided that the vessel is inspected in the next port of call or within 15 days and this possibility is modified so that it can be availed of by all Member States. Certain

categories of vessels which are perceived to present a higher risk and which are therefore eligible for an expanded inspection are required to notify their estimated time of arrival to a port 72 hours in advance of their arrival. However after a number of years, it was concluded that this obligation was too burdensome on operators and added no value as the national authorities already have the information required more easily available in the THETIS database. On this basis the Paris MOU abolished this pre-arrival notification obligation *and* therefore Directive 2009/16/EC should be aligned accordingly.

- (10a) *In normal circumstances inspections of Priority II ships are not mandatory although Priority II ships may be inspected. However, for Member States which will not receive enough ship calls eligible for inspections to fulfil their annual commitment, these Priority II ships have to be inspected to reach their annual inspection commitment. Since these inspections become, de facto, mandatory for those states, more flexibility for inspections of priority II ships may be needed, specifically for these states. Therefore, postponement and justification is made available for previously mentioned states.*
- (11) Over the last decade and despite increases in the number of vessels calling to EU ports including the short sea shipping transport of goods between main ports in the EU Member States and ports situated in geographical Europe or in non-European countries on the Mediterranean and the Black Sea, the safety profile of vessels calling to EU ports has improved considerably. Port State control inspections are being increasingly used to enforce environmental legislation such as in relation to sulphur emissions or the safe and environmental scrapping of ships. The “Fit for 55 package” aims to reduce the EU’s total green house gas emissions by 55% by 2030, paving the way to climate neutrality by 2050 and maritime transport is expected to contribute to this effort. *In this regard, the Union, in line with its commitments related to protecting the marine environment, should continue exerting its leadership in a sector regulated both at European and international level.* However, the ship risk profile devised prior to 2009 had different priorities and is not fully adapted to focus the inspection effort on the least environmentally performing vessels.
- (12) On this basis, the ship risk profile should be updated to reflect environmental issues by attaching more importance to the environmental performance, including the operational carbon intensity of the ships being inspected as well as to environmental related deficiencies and detentions.
- (12a) *After the IMO has concluded the revision of its carbon intensity indicator (CII), the Commission should assess its suitability as an environmental parameter used for the*

determination of a ship risk profile of a ship under this Directive and consider a legislative proposal as appropriate.

- (12a) *A new methodology was adopted by the Paris MOU in 2019, establishing high, medium and low performance lists, as an alternative to the white, grey and black list of flag States. Special care should be paid to the Implementing Regulation referred to in Article 10 on Ship risk profile which establishes the categorisation of Flag States. This methodology should be implemented in this directive in order to ensure its fairness, in particular with respect to the way it treats flag States with small fleets.*
- (12b) *Since Port state control officers need time to prepare and carry out inspections, it is important to ensure that sufficient time is available. This is particularly relevant in the case of expanded inspections and also for inspections of ro-ro passenger ships in regular service where the operation of the vessel may be considered.*
- (12c) *Due to the scope of expanded inspections, they should be carried out by at least two port State control inspectors. When this is not possible for objective reasons, such as the specificities of the port (limited staff, problems of accessibility), , because the notice for the arrival was too short or because the expanded inspection arises due to unexpected or overriding factors, these reasons should be duly recorded .*
- (13) Digitalisation is an essential aspect of technological progress in the area of data collection and communication, with a view to helping to bring down costs and making efficient use of human resources. The number of ships currently carrying electronic certificates is on the rise and *is* expected to increase. Therefore, the effectiveness of port State control should be enhanced by making ~~more~~*greater* use of electronic certificates, to allow for more ~~ship focussed~~*ship-focussed* and better prepared inspections. ~~The uptake and use of these electronic certificates should be incentivised by their inclusion in the ship risk profile.~~
- (14) Port State control has been increasing in complexity as new inspection requirements are added, either by EU law or via the International Maritime Organization *as testimony to the close interlinkage between health, safety, security, and social considerations*. There is therefore a need to ensure the upskilling and reskilling of the port State control officers and continuously develop their training. *This will enable the competent authorities of the port States to verify compliance with applicable international conventions on maritime safety and security, on protection of the marine environment and on living and working conditions on-board, in respect of the ships calling at their ports. In conducting such*

monitoring activities, the port should not interfere with the competence of a Flag State as set in in Directive 2013/54/EU.

- (15) Union Flag State administrations in line with Directive 2009/21/EC of the European Parliament and of the Council⁴ are required to have a quality management system in order to help Member States to further improve their performance as flag States and to ensure a level playing field between administrations. A similar requirement for the port state control activities should allow Member States to certify that their organisation, its policies, processes, resources and documentation are appropriate to achieve its objectives. *To ensure that Member States have sufficient time to implement this requirement, the certification of this quality management system should be aligned with the usual audit interval for the* as well as identify system problems such as resource or personnel allocation issues before these become problematic. *that already exists under Directive 2009/21/EC of the European Parliament and of the Council¹*
- (16) In order to allow for an ~~up-to-date~~*up-to-date* application of the provisions of this Directive to allow Member States to fulfil their obligations under international law in compliance with the Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission ~~in respect of~~*with regard to* updating the Conventions within the scope of Directive 2009/16/EC and amending the list of procedures and guidelines relating to port State control adopted by the Paris MOU~~MoU~~. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁵. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (17) In order to ensure uniform conditions for the implementation of the provisions of Directive 2009/16/EC concerning the list of Conventions ~~under~~*within* its scope, the ~~voluntary port state control regime for fishing vessels above 24 meters length overall, the conditions for the~~ application of Annex VII on expanded inspection, the uniform set of safety and security

⁴ Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 on compliance with flag State requirements (OJ L 131, 28.5.2009, p. 132).

⁵ OJ L 123, 12.5.2016, p. 1.

guidelines and procedures, as well as the requirements for electronic certificates, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁶.

- (18) ~~In order to improve the quality of port state control inspections in marine areas close to the EU all eligible Member States are encouraged to join the Mediterranean MoU on port State control (Med MOU).~~
- (19) In view of the full monitoring cycle of visits to Member States by the European Maritime Safety Agency (EMSA) to monitor the implementation of Directive 2009/16/EC, the Commission should evaluate the implementation of Directive 2009/16/EC no later than ~~ten~~ *five* years after its date of application *transposition* referred to in Article XX)] and report to the European Parliament and the Council thereon. Member States should cooperate with the Commission to gather all information necessary for this evaluation. *The following evaluation should take place 5 years after the first.*
- (20) Since the objectives of this Directive, cannot be sufficiently achieved by the Member States because of the international nature of maritime transport but can rather, by reason of the network effects of member States acting together, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (20a) *If an inspection is not performed due to extraordinary and unforeseen circumstances rendering the carrying out of an inspection impossible, such as natural disasters, pandemics or public health emergencies or terrorist attacks, it should not be counted as a missed inspection. These circumstances should be duly justified and reported to the Commission.*
- (20b) *In order not to impose a disproportionate administrative burden on landlocked Member States, a de minimis rule should allow such Member States to derogate from the provisions of this Directive, which means that such Member States, as long as they meet certain criteria, are not obliged to transpose this Directive.*

⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(21) Directive 2009/16/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2009/16/EC

Directive 2009/16/EC is amended as follows:

(1) Article 2 is amended as follows:

(a) in point 1, the following points ~~(i)~~ and ~~(m)~~ are added:

‘(l) *the International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM Convention);*

(m) *the Nairobi International Convention on the Removal of Wrecks (Nairobi Convention);*

(n) *the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships 2009 (Hong Kong Convention).*’

(aa) in point 1, point (c) is replaced by the following:

‘(c) *the International Convention for the Prevention of Pollution from Ships, 1973, and the 1978 Protocol relating thereto (Marpol 73/78);*’

(ab) in point 1, point (d) is replaced by the following:

‘(d) *the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW);*’

(b) point 3 is deleted.

(bb) point 8 is replaced by the following:

‘8. ‘Inspector’ means a public-sector employee or other person, duly authorised by the competent authority of a Member State to carry out port-State control inspections, and responsible to that competent authority.’

(bc) the following point is added:

‘8a. ‘inspection’ means a verification of the condition of the ship, its equipment and its crew based on the applicable Conventions and

carried out by an inspector. The inspection is not a survey for the issuing, endorsement or renewal of statutory certificates and the inspection report provided to the captain is not a certificate.'

(bd) point 11 is replaced by the following:

'11. 'initial inspection' means an inspection on board a ship by an inspector, including at least the checks required by Article 13(1).'

(be) point 12 is replaced by the following:

'12. 'More detailed inspection' means an inspection including the scope of an initial inspection where the ship, its equipment and crew as a whole or, as appropriate, parts thereof are subjected, in the circumstances specified in Article 13(3), to an in-depth examination covering the ship's construction, equipment, manning, living and working conditions and compliance with on-board operational procedures.'

(bf) point 13 is replaced by the following:

'13. 'Expanded inspection' means an inspection, including the scope of an initial inspection, which covers at least the items listed in Annex VII. An expanded inspection may include a more detailed inspection whenever there are clear grounds in accordance with Article 13(3).'

(bg) point 19 is replaced by the following:

'19. 'Statutory certificate' means a certificate issued by or on behalf of a flag State in accordance with the applicable Conventions.'

(2) Article 3 is amended as follows:

(-a) paragraph 3 is replaced by the following:

'3. When inspecting a ship flying the flag of a State which is not a party to a Convention, Member States shall ensure that the treatment of that ship and its crew is not more favourable than that of a ship flying the flag of a State party to that Convention. Such a ship shall be subject to a more detailed inspection, in accordance with procedures established by the Paris MOU; However, ships flying the flag of a State which is not a party to the international Conventions on civil liability for oil pollution damage (CLC 92), Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention, 2001), and Nairobi International

Convention on the Removal of Wrecks (Nairobi Convention) are not automatically subject to a more detailed inspection, if the ship has the required certificate from a State Party to these conventions and the inspector performing the inspection deems a more detailed inspection unnecessary. This decision and the reasons therefore, shall be recorded in the inspection database.'

(a) paragraph 4 is replaced by the following:

'4. Fishing vessels below of less than 24 meters overall in length, warships, naval auxiliaries, wooden ships of a primitive build, government ships used for non-commercial purposes and pleasure yachts not engaged in trade shall be excluded from the scope of this Directive. For the purposes of this directive, a fishing vessel's length shall be defined in accordance with the Cape Town Agreement of 2012;'

(b) the following paragraph 4a is added:

'4a. Member States may carry out port State control inspections of fishing vessels of above 24 metres in length overall and above. The Commission, in cooperation with the Paris MoU, may adopt guidelines shall adopt implementing acts establishing the modalities of such a parallel and separate specific port State control regime for these fishing vessels above 24 meters length overall. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2).';'

(3) in Article 5, the following paragraph 2a is inserted:

'2a. Inspections of Priority II ships carried out by Member States when its annual inspection commitment has been exceeded by more than 150% exceeding 20% of their annual inspection commitments shall not be taken into account in the calculation of the annual inspection commitment commitments of Member States parties to the Paris MOU.';

(4) Article 6 is replaced by the following:

' Article 6

Modalities of compliance with the inspection commitment

A Member State which fails to carry out the inspections required in Article 5(2)(a), *nevertheless* complies with its commitment in accordance with that provision if such missed inspections do not exceed 10 % of the total number of Priority I ships calling at its ports and anchorages, irrespective of their risk profile.

Notwithstanding the percentages of missed inspections referred to in the first ~~subparagraph~~*paragraph*, Member States shall prioritise *the* inspection of ships, which, according to the information provided by the inspection database, call at ports within the Union infrequently.

Notwithstanding the percentages of missed inspections referred to in the first ~~subparagraph~~*paragraph*, for Priority I ships calling at anchorages, Member States shall prioritise *the* inspection of ships with a high risk profile, which, according to the information provided by the inspection database, call at ports within the Union infrequently.’;

(5) *Article 7 is amended as follows:*

(-a) *the title and paragraph 1 are replaced by the following:*

‘Modalities allowing a balanced inspection share within the Union

1. *A Member State in which the total number of calls of Priority I ships exceeds its inspection share referred to in Article 5(2)(b), shall be regarded as complying with such commitment, if a number of inspections carried out by that Member State corresponds at least to such an inspection share and if that Member State does not miss more than 40% of the total number of Priority I ships calling at its ports and anchorages.’;*

(5)(b) ~~In Article 7,~~ paragraph 2 is replaced by the following:

2. A Member State, in which the total number of calls of Priority I and Priority II ships is less than 150% of the inspection share referred to in Article 5(2) point (b), shall *nevertheless* be regarded as complying with its annual inspection commitment; if that Member State carries out inspections of two thirds of Priority I and II ships of the total number of Priority I and II ships calling at its ports and anchorages.’;

- (6) in Article 8, paragraphs 1, **2 and 3** and ~~2~~ are replaced by the following, **and one new paragraph is added**:

1. A Member State may decide to postpone the inspection of a Priority I or Priority II ship in the following circumstances:
 - (a) if the inspection may be carried out at ~~the next~~**any subsequent** call of the ship in the same Member State, provided that the ship does not call at any other port in the Union or the Paris MOU region in between, **except any ports of the ship's flag State**, and the postponement is not more than 15 days **from the actual time of departure**; or
 - (b) if the inspection may be carried out in another port of call within the ~~Community~~**Union** or the Paris MOU region within 15 days **from the actual time of departure**, provided the State in which such ~~a~~ port of call is located has agreed in advance to perform the inspection; **or**
 - (c) **if the inspection for a ship, including ro-ro passenger ships or high-speed passenger craft operating on a regular service, may be carried out in the same port of call within 15 days from the actual time of departure.**
These postponed inspections shall not be counted for the assessment of the Member State's compliance with the inspection commitment referred to in Articles 6 and 7 if they are recorded as such in the inspection database.
2. Where an inspection is not performed on a Priority I or Priority II ship for operational reasons, it shall not be counted as a missed inspection, provided that the reason for missing the inspection is recorded in the inspection database and the following exceptional circumstances occur:
 - (a) in the judgement of the competent authority the conduct of the inspection would create a risk to the safety of inspectors, the ship, its crew or to the port, or to the marine environment; or
 - (b) the ship call takes place only during night time (as provided for in Article ~~2(10))~~**2(9)**. In this case Member States shall take the

measures necessary to ensure that ships which call regularly during night time are inspected as appropriate.; *or*

(c) *the duration of the ship call is too short for the inspection to be carried out satisfactorily;*

3. *If an inspection is not performed on a ship at anchorage, it shall not be counted as a missed inspection if:*

(a) *the ship is inspected in another port or anchorage within the Community or the Paris MOU region in accordance with Annex I within 15 days; or*

(b) *the ship call takes place only during night time or its duration is too short for the inspection to be carried out satisfactorily, and the reason for missing the inspection is recorded in the inspection database; or*

(c) *in the judgement of the competent authority, the conduct of the inspection would create a risk to the safety of inspectors, the ship, its crew or to the port, or to the marine environment, and the reason for missing the inspection is recorded in the inspection database; or*

4. *If an inspection is not performed due to extraordinary and unforeseen circumstances it shall not be counted as a missed inspection and the reason for missing the inspection shall be recorded in the inspection database. These circumstances shall be duly justified and reported to the Commission.'*

(7) ~~the following Article 8a is inserted:~~

~~' Article 8a~~

~~Force majeure~~

~~Failure to carry out an inspection for force majeure reasons shall not be counted as a missed inspection provided that the missed inspection and the reasons for not carrying it out are documented and recorded in the inspection database.'~~

(8) Article 9 is deleted;

(a) paragraph 1 is replaced by the following:

‘1. The following categories of ships are eligible for an expanded inspection in accordance with Annex I, Part II 3A and 3B:

- ships with a high risk profile,
- passenger ships, oil tankers, gas, NLS or chemical tankers or bulk carriers, older than 12 years of age,
- ships with a high risk profile or passenger ships, oil tankers, gas, NLS or chemical tankers or bulk carriers, older than 12 years of age, in cases of overriding or unexpected factors,
- ships subject to the inspection following a refusal of access order issued in accordance with Article 16 and 21.4.’

(ab) paragraph 3 is deleted

(b) paragraph 4 is replaced by the following:

‘4. An expanded inspection shall be carried out, *as far as possible*, by no ~~less~~*fewer* than two port State control officers. *If this is not possible, the reasons shall be duly recorded in the inspection database.* The scope of an expanded inspection, including the risk areas to be covered, is set out in Annex VII. The Commission shall adopt, by means of implementing acts, detailed measures to ensure uniform conditions for the application of Annex VII. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2).’

(11) ~~In Article 14a, paragraph 4 is replaced by the following~~ is amended as follows:

(a) paragraph 4 is replaced by the following:

‘4. Article 11 point (a) and Article 14 shall not apply to ro-ro passenger ships and high-speed passenger craft on a regular service inspected under this Article.’;

(b) a new paragraph is added:

‘4a. The operator or master of the ship shall ensure that sufficient time is available in the operating schedule to allow the inspections provided for in 1.1 and 2.a of Annex XVII to be carried out.’.

(12) Article 16 is amended as follows:

(a) Paragraph 1 is replaced by the following:

‘1. A Member State shall refuse access to its ports and anchorages to any ship which:

- flies the flag of a State ~~which falls into~~ *on* the low performance list, adopted in accordance with the Paris MOU on the basis of information recorded in the inspection database and published annually by the Commission, and has been detained more than twice in the course of the preceding 36 months in a port or anchorage of a Member State or of a State signatory of the Paris MOU, or
- flies the flag of a State ~~which falls into~~ *on* the high or- medium performance list, adopted in accordance with the Paris MOU on the basis of information recorded in the inspection database and published annually by the Commission, and has been detained more than twice in the course of the preceding 24 months in a port or anchorage of a Member State or of a State signatory of the Paris MOU.

The first subparagraph of this Article shall not apply to the situations referred to in Article 21(6).

The refusal of access shall be applicable as soon as the ship leaves the port or anchorage where it has been the subject of a third detention and where a refusal of access order has been issued.’;

(aa) *Paragraph 2 is replaced by the following:*

‘2. *The refusal of access order shall be lifted only after a period of three months has passed from the date of issue of the order and when the conditions in paragraphs 3 to 6 of Annex VIII are met.*’;

(b) Paragraph 3 is replaced by the following:

‘3. Any subsequent detention in a port or anchorage ~~within the Union of a Member State or of a State signatory of the Paris MoU~~ shall result in the ship being refused access to any port and anchorage within the Union. This third refusal of access order may be lifted after a period of 24 months has passed from the issue of the order and only if:

- *(-a) the ship flies the flag of a State whose detention rate appears neither on the low performance list nor on the medium performance list referred to in paragraph 1,*
- (a) the statutory and classification certificates of the ship are issued by an organisation or organisations recognised under Regulation (EC) No 391/2009 of the European Parliament and of the Council⁷
- (b) the ship is managed by a company with a high performance according to Annex I, Part I.1, and
- *(c) the conditions listed in paragraphs 3 to 96 of Annex VIII are met.*

Any ship not meeting the criteria specified in this paragraph, after a period of 24 months has passed from the issue of the order, shall be permanently refused access to any port and anchorage within the Union.’

(c) paragraph 4 is replaced by the following:

‘4. Any subsequent detention of a vessel flying the flag of a State ~~listed in the~~ *that appears on the* medium or low performance list, as published in the annual report of the Paris MOU, in a port or anchorage within the Union after the third refusal of access shall result in the ship being permanently refused access to any port and anchorage within the Union.’

(d) The following ~~paragraph 4a is~~ *paragraphs are* inserted:

‘4a. ~~If A ship flying the flag of a State listed in~~ *that appears on* the high performance list ~~and which is detained in a port or anchorage after the third or any subsequent refusal of access and, of a Union at the time of the its first subsequent ship/port interface in an EU port, the statutory and classification certificates of the ship are issued by an organisation or organisations recognised under Regulation (EC) No 391/2009 and evidence is provide that an on-board visit by the classification society has taken place prior to the issuance of such certificates, the ship~~ *inspection in the Union after the third or any subsequent refusal of access, shall be refused access to any port or anchorage for a period of 24 months.*’

⁷ Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations (OJ L 131, 28.5.2009, p.11.)

- (b) which do not comply with the applicable requirements of the Conventions by not calling ~~into~~^{at} the indicated repair yard.

The refusal of access order shall become applicable from the date of its issuing. The refusal of access order shall be lifted after a period of 12 months has passed. The refusal of access order shall become applicable from the date of its issuing and the conditions in paragraphs 3 to 6 of Annex VIII are met.

~~Such refusal shall be maintained until the owner or operator provides evidence to the satisfaction of the competent authority of the Member State where the ship was found defective, demonstrating that the ship fully complies with all applicable requirements of the Conventions.~~

- (b) *the second subparagraph of paragraph 5 is replaced by the following:*

In the circumstances referred to in paragraph 4(b), the competent authority of the Member State in which the repair yard lies shall inform the authority of the Member State that detained the ship whether or not the ship has arrived. When the competent authority of the Member State where the ship was found defective becomes aware that ship has not called at a repair yard, it shall immediately alert the competent authorities of all the other Member States.

In the circumstances referred to in paragraph 4(b) and if the repair yard is not in a Member State, when the competent authority of the Member State where the ship was found defective becomes aware that ship has not called at a repair yard, it shall immediately alert the competent authorities of all the other Member States.;

- (c) *paragraph 6 is replaced by the following:*

‘6. By way of derogation from the provisions of paragraph 4, access to a specific port or anchorage may be permitted by the relevant authority of that port State in the event of force majeure or overriding safety considerations, or to reduce or minimise the risk of pollution or to have deficiencies rectified according to Article 21(1), provided that adequate measures to the satisfaction of the competent authority of such Member State have been implemented by the owner, the operator or the master of the ship to ensure safe entry.’

(15) Article 24 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. Member States shall take the appropriate measures to ensure that the information on the actual time of arrival and the actual time of departure of any ship calling at their ports and anchorages, together with an identifier of the port concerned, is transferred within three hours ~~of the~~ *from the arrival and departure time respectively* to the inspection database through the Union maritime information exchange system ‘SafeSeaNet’ referred to in Article 3 point (s) of Directive 2002/59/EC. Once they have transferred such information to the inspection database through SafeSeaNet, Member States are exempted from the provision of data in accordance with points 1.2 and 2(a) and (b) of Annex XIV to this Directive.’

(b) paragraph 3 is replaced by the following:

‘3. Member States shall ensure that the information related to inspections performed in accordance with this Directive is transferred to the inspection database as soon as the inspection report is completed or the detention lifted.

Within 72 hours, Member States shall ensure that the information transferred to the inspection database is validated for publication purposes. The inspection report shall be validated, before its transfer to the database, *if feasible*, by a port State control inspector *or other duly authorised employee of the competent authority* who was not part of the team that carried out the inspection.’

(16) the following Article 24a is inserted:

‘ Article 24a

Electronic certificates

1. The Commission shall, in close cooperation with the Member States, adopt implementing acts laying down the functional and technical specifications for a ~~harmonised reporting interface, validation tool and central repository/database for electronic versions of the~~ *statutory* certificates ~~listed in Annex IV and referred to in Article 13(1). Those~~

- (b) information concerning ships which have proceeded to sea without having complied with Article 7 of Directive (EU) 2019/883 on port reception facilities,
- (c) information concerning ships which have been denied entry or expelled from port on security grounds,
- (d) information on apparent anomalies in accordance with Article 23.’

(18) Article 30 is replaced by the following:

‘ Article 30

Monitoring of compliance and performance of Member States

In order to ensure the effective implementation of this Directive and to monitor the overall functioning of the Union’s port State control regime in accordance with Article 2(b) point (i) of Regulation (EC) No 1406/2002, the Commission shall collect the necessary information and carry out visits to Member States.

Each Member State- shall develop, implement, and maintain a quality management system for the operational parts of the port State-related activities of its administration, ***directly involved in inspections. Such a*** ~~Such a~~ quality management system shall be certified in accordance with the applicable international quality standards ***within 5 years after the date of transposition referred to in Article XX.***’

(19) ~~in~~ Article 30a is replaced by the following:

‘ Article 30a

Delegated acts

The Commission shall be empowered to adopt delegated acts in accordance with Article 30b, to amend Article 2(1) to amend the list of Conventions set out in Article 2(1) once such Conventions have been adopted as a relevant instrument by the Paris MoU and to amend Annex VI in order to add and/or update the list of procedures, ***guidelines, instructions and circulars,*** ~~and~~ ***guidelines*** relating to port State control adopted by the Paris MOU set out in that Annex.’

(20) ~~in~~ Article 31 the following is inserted:

- ‘4. Amendments to the relevant instruments listed in Article 2 point 1 may be excluded from the scope of this Directive pursuant to Article 5 of Regulation (EC) No 2099/2002.’²

(20a) the following Article is inserted:

‘ Article 31a

Amendments to the Conventions

The amendments to the Conventions defined in Article 2 point 1 of this Directive shall apply, without prejudice to the conformity checking procedure set out in Article 5 of Regulation (EC) No 2099/2002 of the European Parliament and of the Council.’

(21) Article 33 is replaced by the following:

‘ Article 33

Implementing rules

When establishing the implementing rules referred to in Articles 2(2) 3(4a), ~~10(3), 10(4), 10(3)~~, 14(4), 15(3), 18a(7), 23(5), ~~24a(1) 24a(6)~~ and Article 27, in accordance with the procedures referred to in Article 31(2), the Commission shall take specific care *to ensure* that those rules take into account the expertise and experience gained with the inspection system in the Union and build upon the expertise of the Paris MOU.’

(22) Article 35 is replaced by the following:

‘ Article 35

Implementation review

The Commission shall by [OP: Please insert a date: ~~ten~~/5] years from the date of entry into force ~~transposition~~ of this amending Directive] submit a report to the European Parliament and the Council on the implementation of, and compliance with, this Directive.’; *The Commission shall determine on the basis of the report whether it is necessary to submit a legislative proposal for the amendment of this Directive or for further legal acts in this area. The following evaluation shall take place 5 years after the first.*

After the IMO has concluded the revision of its carbon intensity indicator (CII), the Commission shall assess its suitability as an environmental

parameter used for the determination of a ship risk profile of a ship under this Directive and consider a legislative proposal as appropriate.’

(23) Annex I is amended in accordance with Annex I to this Directive.

(24) Annex II is replaced by the text in Annex II to this Directive.

(25) Annex III is deleted.

(26) Annex IV is replaced by the text in Annex III to this Directive.

(27) Annex V is replaced by the text in Annex IV to this Directive.

(28) Annex VIII is replaced by the text in Annex V to this Directive.

(28a) Annex XII is replaced by the text in Annex VI to this Directive.

Article 2

Transposition

1. Member States shall adopt and publish, by [OP: Please insert a date: ~~one year~~ **30 months** from the date of entry into force of this amending Directive] the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.
3. ***Member States which do not have seaports and which can verify that of the total number of individual vessels calling annually over a period of the three previous years at their river ports, less than 5 % are ships covered by this Directive, may derogate from the transposition of this directive.***

Article 3

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 4

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

I. Ship Risk profile

The risk profile of a ship shall be determined by a combination of the following generic, historical, and environmental parameters.

1. Generic parameters

(a) Type of ship

Passenger ships, oil and chemical tankers, gas carriers, *NLS-tankers* and bulk carriers shall be considered as posing a higher risk.

(b) Age of ship

Ships of more than 12 years old shall be considered as posing a higher risk.

(c) Flag State performance

- (i) Ships flying the flag of a State with a high detention rate within the Community and the Paris MOU region shall be considered as posing a higher risk.
 - (ii) Ships flying the flag of a State with a low detention rate within the Community and the Paris MOU region shall be considered as posing a lower risk.
 - (iii) Ships flying the flag of a State which has ratified all of the mandatory IMO *and ILO* instruments listed in Article 2(1)– shall be considered as posing a lower risk. ~~As soon as the measures referred to in Article 10(3) are adopted, the flag State of such a ship shall demonstrate compliance with the Code for the implementation of mandatory IMO instruments.~~
 - (iv) ~~Ships flying the flag of a State which has furnished electronic versions of the statutory certificates set out in points 1-XX of Annex IV.~~
- (d) Recognised organisations
- (i) Ships which have been delivered certificates from recognised organisations having a low or very low performance level in relation with their detention rates within the Community and the Paris MOU region shall be considered as posing a higher risk.

- (ii) Ships which have been delivered certificates from recognised organisations having a high performance level in relation with their detention rates within the Community and the Paris MOU region shall be considered as posing a lower risk.
- (iii) Ships with certificates issued by organisations recognised under the terms of Regulation (EC) No 391/2009.
- (e) Company performance
 - (i) Ships of a company with a low or very low performance as determined by its ships' deficiency and detention rates within the Community and the Paris MOU region shall be considered as posing a higher risk.
 - (ii) Ships of a company with a high performance as determined by its ships' deficiency and detention rates within the Community and the Paris MOU region shall be considered as posing a lower risk.

~~(f)~~2. Historical parameters

- (i) Ships which have been detained more than once shall be considered as posing a higher risk.
- (ii) Ships which, during inspection(s) carried out within the period referred to in Annex II have had less than the number of deficiencies referred to in Annex II, shall be considered as posing a lower risk.
- (iii) Ships which have not been detained during the period referred to in Annex II, shall be considered as posing a lower risk.

The risk parameters shall be combined by using a weighting which reflects the relative influence of each parameter on the overall risk of the ship in order to determine the following ship risk profiles:

- high risk,
- standard risk,
- low risk.

In determining these risk profiles greater emphasis shall be given to the parameters for type of ship, flag State performance, recognised organisations and company performance.

~~(g)~~3. Environmental parameters

- (i) ~~The Carbon Intensity Indicator of the ship, ships which are category D-E shall be considered as posing a higher risk.~~
- (ii) Ships which, during inspection(s) carried out within the period referred to in Annex II have had ~~less~~*more* than the number of deficiencies relating to MARPOL, AFS, ~~BWM~~*CBWM Convention*, CLC 92, Bunkers Convention, *Nairobi and Hong Kong* ~~and Nairobi~~ Conventions referred to in Annex II, shall be considered as posing a ~~lower~~*higher* risk.

II. Inspection of ships

1. Periodic inspections

Periodic inspections shall be carried out at predetermined intervals. Their frequency shall be determined by the ship risk profile. The interval between periodic inspections of high risk ships shall not exceed six months. The interval between periodic inspections of ships of other risk profiles shall increase as the risk decreases.

Member States shall carry out a periodic inspection on:

- *Any ship with a high risk profile which has not been inspected in a port or anchorage within the Community or of the Paris MOU region during the last six months. High risk ships become eligible for inspection as from the fifth month.*
- *Any ship with a standard risk profile which has not been inspected in a port or anchorage within the Community or of the Paris MOU region during the last 12 months. Standard risk ships become eligible for inspection as from the 10th month.*
- *Any ship with a low risk profile which has not been inspected in a port or anchorage within the Community or of the Paris MOU region during the last 36 months. Low risk ships become eligible for inspection as from the 24th month.*

2. Additional inspections

Ships, to which the following overriding or unexpected factors apply, are subject to an inspection regardless of the period since their last periodic inspection. However, the need to undertake an additional inspection on the basis of unexpected factors is left to the professional judgement of the inspector.

2A. Overriding factors

Ships to which the following overriding factors apply shall be inspected regardless of the period since their last periodic inspection:

- *Ships which have been suspended or withdrawn from their class for safety reasons since the last inspection in the Community or in the Paris MOU region.*
- *Ships which have been the subject of a report or notification by another Member State.*
- *Ships which cannot be identified in the inspection database.*
- *Ships which:*
 - *have been involved in a collision, grounding or stranding on their way to the port,*
 - *have been accused of an alleged violation of the provisions on discharge of harmful substances or effluents, or*
 - *have manoeuvred in an erratic or unsafe manner whereby routing measures, adopted by the IMO, or safe navigation practices and procedures have not been followed, or*
 - *previously banned ships (next inspection after lifting of the refusal of access order), or*
 - *have been involved in a severe incident, especially a major fire on board, engine breakdown and fatal accidents.*

2.B. Unexpected factors

Ships to which the following unexpected factors apply may be subject to inspection regardless of the period since their last periodic inspection. The decision to undertake such an additional inspection is left to the professional judgement of the competent authority:

- *Ships carrying certificates issued by a formerly recognised organisation whose recognition has been withdrawn since the last inspection in the Community or in the Paris MOU region.*
- *Ships which have been reported by pilots or port authorities or bodies as having apparent anomalies which may prejudice their safe navigation or pose a threat of harm to the environment in accordance with Article 23 of*

- (b) *An initial or a more detailed inspection, as appropriate, shall be carried out on:*
- *any ship other than a passenger ship, an oil tanker, a gas, NLS or chemical tanker or a bulk carrier, older than 12 years of age, with a standard risk profile not inspected in the last 12 months.*
- (c) *In case of an overriding factor.*
- *A more detailed or an expanded inspection, according to the professional judgement of the inspector, shall be carried out on any ship with a high risk profile and on any passenger ship, oil tanker, gas, NLS or chemical tanker or bulk carrier, older than 12 years of age.*
 - *A more detailed inspection shall be carried out on any ship other than a passenger ship, an oil tanker, a gas, NLS or chemical tanker or a bulk carrier, older than 12 years of age.*
 - *An expanded inspection shall be carried out on any ship in the first inspection following lifting of a refusal of access order*
- 3B. *Where the competent authority decides to inspect a Priority II ship, the following shall apply:*
- (a) *An expanded inspection shall be carried out on:*
- *any ship with a high risk profile not inspected in the last five months,*
 - *any passenger ship, oil tanker, gas, NLS or chemical tanker or bulk carrier, older than 12 years of age, with a standard risk profile not inspected in the last 10 months, or*
 - *any passenger ship, oil tanker, gas, NLS or chemical tanker or bulk carrier, older than 12 years of age, with a low risk profile not inspected in the last 24 months.*
- (b) *An initial or a more detailed inspection, as appropriate, shall be carried out on:*
- *any ship other than a passenger ship, an oil tanker, a gas, NLS or chemical tanker or a bulk carrier, older than 12 years of age, with a standard risk profile not inspected in the last 10 months, or*

DESIGN OF SHIP RISK PROFILE

(referred to in Article 10(2))

				Profile				
				High Risk Ship (HRS)		Standard Risk Ship (SRS)	Low Risk Ship (LRS)	
Generic parameters				Criteria	Weighting points	Criteria	Criteria	
1	Type of ship			Chemical tankship Gas carrier Oil tankship Bulk carrier Passenger ship NLS	1	neither a high risk nor a low risk ship	All types	
2	Age of ship			all types > 12 y	1		All ages	
3a	Flag	Low performance			2		High performance	
3b		All IMO/ILO instruments listed in Article 2 ratified		-	-		Yes	
3c		E-Certificate		Statutory certificates are transmitted digitally to the information system				
4a	Recognised organisation	Performance	H	-	-		High	
			M	-	-		-	
			L	Low	1		-	
			VL	Very Low			-	
4b		EU recognised		-	-		Yes	
5	Company	Performance	H	-	-		High	
			M	-	-		-	
			L	Low	2		-	
			VL	Very low			-	
Historical parameters								
6	Number of deficiencies recorded in each inspection within previous 36 months		Deficiencies	>6 in one of the inspections	-			≤ 5 in every individual inspection (and at least one inspection carried out in previous 36 months)

7	Number of detentions within previous 36 months	Detentions	≥ 2 detentions	1	No detention
Environmental parameters					
8	Carbon Intensity Indicator (CII)	Rating	D-E	1	
9	Number of deficiencies related to MARPOL, AFS, BWM, CLC 92, Bunkers, Nairobi and Hong Kong Conventions recorded in each inspection within previous 36 months	Deficiencies	≥ 3 >2 in one of the inspections	1	

HRS are ships which meet criteria to a total value of 5 or more weighting points. LRS are ships which meet all the criteria of the Low Risk Parameters.
SRS are ships which are neither HRS nor LRS

² Annex IV**LIST OF CERTIFICATES AND DOCUMENTS****(referred to in Article 13(1))**

Part A List of certificates and documents which to the extent applicable should be checked as a minimum during the inspection referred to in paragraph 2.2.3 (as appropriate):

1. International Tonnage Certificate;
2. Reports of previous port State control inspections;
3. Passenger Ship Safety Certificate (SOLAS 1974, regulation I/12);
4. Cargo Ship Safety Construction Certificate (SOLAS 1974, regulation I/12);
5. Cargo Ship Safety Equipment Certificate (SOLAS 1974, regulation I/12);
6. Cargo Ship Safety Radio Certificate (SOLAS 1974, regulation I/12);
7. Cargo Ship Safety Certificate (SOLAS 1974, regulation I/12);
8. Exemption Certificate (SOLAS 1974, regulation I/12);
9. Minimum Safe Manning Document (SOLAS 1974, regulation V/14.2);
10. International Load Line Certificate (1966) (LLC 66/88, article 16.1);
11. International Load Line Exemption Certificate (LLC 66/88, article 16.2);
12. International Oil Pollution Prevention Certificate (MARPOL Annex I, regulation 7.1);
13. International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (NLS) (MARPOL, Annex II, regulation 9.1);
14. International Sewage Pollution Prevention Certificate (ISPPC) (MARPOL, Annex IV, regulation 5.1, MEPC.1/Circ.408);
15. International Air Pollution Prevention Certificate (IAPPC) (MARPOL, Annex VI, regulation 6.1);
16. International Energy Efficiency Certificate (MARPOL, Annex VI regulation 6);
17. International Ballast Water Management Certificate (IBWMC) (BWMC Art 9.1(a) and regulation E-2);
18. International Anti-Fouling System Certificate (IAFS Certificate) (AFS 2001 Annex 4 regulation 2);
19. Declaration on AFS (AFS 2001 Annex 4 regulation 5);
20. International Ship Security Certificate (ISSC) or Interim International Ship Security Certificate (ISPS Code part A/19 and appendices);
21. Certificates for masters, officers or ratings issued in accordance with STCW Convention (STCW art. VI, regulation I/2 and STCW Code section A-I/2);
22. Copy of Document of Compliance or a copy of the Interim Document of Compliance issued in accordance with the International Management Code for the Safe Operation of Ships and for Pollution Prevention (DoC) ISM Code (SOLAS regulation IX/4.2, ISM Code, paragraph 13 and 14);

23. Safety Management Certificate or an Interim Safety Management Certificate issued in accordance with the International Management Code for the Safe Operation of Ships and for Pollution Prevention (SMC) (SOLAS 1974, regulation IX/4.3, ISM Code, paragraph 13 and 14);
24. International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk, or the Certificate of Fitness for the Carriage of Liquefied Gases in Bulk, whichever is appropriate (IGC Code regulation 1.5.4 or GC Code regulation 1.6);
25. International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk, or the Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk, whichever is appropriate (IBC Code regulation 1.45.4 and BCH Code regulation 1.6.3); 26 INF (International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships) Certificate of Fitness (SOLAS regulation VII/16 and INF Code reg .1.3);
26. INF (International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships) Certificate of Fitness (SOLAS regulation VII/16 and INF Code reg .1.3);
27. Certificate of insurance or any other financial security in respect of civil liability for oil pollution damage (CLC 69/92 art. VII.2);
28. Certificate of insurance or any other financial security in respect of civil liability for Bunker oil pollution damage (BUNKERS 2001 art. 7.2);
29. Certificate of Insurance or other Financial Security in respect of Liability for the Removal of Wrecks (Removal of Wreck Article 12);
30. High-Speed Craft Safety Certificate and Permit to Operate High-Speed Craft (SOLAS 1974, regulation X/3.2 and HSC Code 94/00 regulations 1.8.1 and 1.9);
31. Document of compliance with the special requirements for ships carrying dangerous goods (SOLAS 1974, regulation II-2/19.4);
32. Document of authorization for the carriage of grain and grain loading manual (SOLAS 1974, regulation VI/9; International Code for the Safe Carriage of Grain in Bulk, section 3);
33. Condition Assessment Scheme (CAS) Statement of Compliance, CAS Final Report and Review Record (MARPOL Annex I, regulations 20 and 21; resolution MEPC.94(46), as amended by resolutions MEPC.99(48), MEPC.112(50), MEPC.131(53), resolution MEPC.155(55), and MEPC.236(65);
34. Continuous Synopsis Record (SOLAS 1974, regulation XI-1/5);
35. Oil Record Book, parts I and II (MARPOL, Annex I, regulations 17 and 36);
36. Cargo Record Book (MARPOL, Annex II, regulation 15);
37. Garbage Record Book, parts I and II (MARPOL, Annex V, regulation 10.3); (MARPOL, Annex V, regulation 10);
38. Garbage Management Plan (MARPOL, Annex V, regulation 10; resolution MEPC.220(63));
39. Logbook and the recordings of the tier and on/off status of marine diesel engines (MARPOL, Annex VI, regulation 13.5.3);
40. Logbook for fuel oil changeover (MARPOL Annex VI, regulation 14.6);
41. Ozone-depleting Substances Record Book (MARPOL, Annex VI, regulation 12.6);
42. Ballast Water Record Book (BWRB) (BWMC Art 9.1 (b) and regulation B-2);
43. Fixed gas fire-extinguishing systems – cargo spaces Exemption Certificate and any list of cargoes (SOLAS 1974, regulation II-2/10.7.1.4);

21. — Records of navigational activities (SOLAS reg. V/26 and V/28.1);
22. — Ship Security Plan and associated records (SOLAS reg. XI-2/9 and ISPS Code part A/9 and 10);
23. — Engine International Air Pollution Prevention Certificate (EIAPPC) (NOX Technical Code 2008 reg. 2.1.1.1);
24. — EEDI Technical File (MARPOL Annex VI, reg. 20);
25. — Technical files (NOX Technical Code 2008 reg. 2.3.4);
26. — Record book of engine parameters (NOX Technical Code reg. 2.3.7);
27. — Type approval certificate of incinerator (MARPOL Annex VI reg. 16.6);
28. — Manufacturer's Operating Manual for Incinerators (MARPOL Annex VI reg. 16.7);
29. — Fuel oil Changeover Procedure for fuel oil changeover (MARPOL Annex VI reg. 14.6);
30. — 30 Bunker delivery notes and Representative Sample (MARPOL Annex VI reg. 18.6 and 18.8.1);
31. — Shipboard Oil Pollution Emergency Plan (MARPOL Annex I reg. 37.1; resolution MEPC.54(32), as amended by resolution MEPC.86(44));
32. — Shipboard Marine Pollution Emergency Plan for Noxious Liquid Substances (MARPOL Annex II reg. 17);
33. — Ship Energy Efficiency Management Plan (MARPOL Annex VI reg. 22; MEPC.1/Circ.795);
34. — STS Operation Plan and Records of STS Operations (MARPOL Annex I reg. 41);
35. — Procedures and Arrangements Manual (chemical tankers) (MARPOL Annex II reg. 14.1; resolution MEPC.18(22), as amended by resolution MEPC.62(35));
36. — VOC Management Plan (MARPOL Annex VI reg. 15.6);
37. — Ballast Water Management Plan (BWMP) (BWMC reg. B-1, resolution MEPC.127(53));
38. — LRIT Conformance Test Report (SOLAS reg. V/19-1.6; MSC.1/Circ.1307);
39. — Copy of the Certificate of compliance issued by the testing facility, stating the date of compliance and the applicable performance standards of VDR (voyage data recorder) (SOLAS reg. V/18.8);
40. — AIS test report (SOLAS reg. V/18.9; MSC.1/Circ.1252);
41. — Noise Survey Report (SOLAS reg. II-1/3-12);
42. — Oil Discharge Monitoring and Control (ODMC) Operational Manual (MARPOL Annex I reg. 31; resolution A.496(XII); resolution A.586(14), as amended by resolution MEPC.24(22); resolution MEPC.108(49), as amended by resolution MEPC.240(65));
43. — Crude Oil Washing Operation and Equipment Manual (MARPOL Annex I reg. 35; resolution MEPC.81(43));
44. — Material Safety Data Sheets (MSDS) (SOLAS reg. VI/5-1; MSC.286(86));
45. — Record of AFS (AFS 2001 Annex 4 reg. 2);
46. — Coating Technical File (SOLAS reg. II-1/3-2); and
47. — Maintenance plans (SOLAS reg. II-2/14.2.2, II-2/14.3 and II-2/14.4).

For reference:

1. — Certificate of Registry or other document of nationality (UNCLOS art. 9.1.2);
2. — Certificates as to the ship's hull strength and machinery installations issued by the classification society in question (only to be required if the ship maintains its class with a classification society);
3. — Cargo Gear Record Book (ILO Convention No.32 art. 9.2(4) and ILO Convention No.152 art. 25);
4. — Certificates loading and unloading equipment (ILO Convention No.134 art. 4.3(e) and ILO Convention No.32 art. 9(4));
5. — Medical certificates (ILO Convention No.73 or MLC, 2006 Standard A1.2);
6. — Records of hours of work or rest of seafarers (ILO Convention No.180 part II art. 8.1 or MLC, 2006, Standard A.2.3.12);
7. — Maritime Labour Certificate (MLC, 2006; Regulation 5.1.3);

8. ~~Declaration of Maritime Labour Certificate (MLC, 2006, Regulation 5.1.3);~~
9. ~~Declaration of Maritime Labour compliance (DMLC) on board (parts I and II) (MLC, 2006, Regulation 5.1.3);~~
10. ~~Seafarer's employment agreements (MLC, 2006, Standard A 2.1);~~
11. ~~Certificate of Insurance or Financial Security for Repatriation of Seafarers (MLC, 2006, Regulation 2.5); and~~
12. ~~Certificate of Insurance or Financial Security for Shipowners liability (MLC, 2006, Regulation 4.2).²~~

‘ANNEX VI

PROCEDURES FOR THE CONTROL OF SHIPS

(referred to in Article 15(1))

Annex I, ‘Port State Control Procedures’, to the Paris MOU and ~~the following~~ *all technical* instructions ~~from the~~ *and circulars issued by Paris MOU MoU that are in force*, in their up-to-date version:

PSCC Technical instructions

- PSCC41-2008-07 Code of Good Practice
- PSCC53-2020-08 Definitions and Abbreviations
- General Paris MoU
- PSCC54-2021-03 Type of inspection
- ~~PSCC55-2022-10~~ *PSCC56/2023/06* Detention and Action Taken
- ~~PSCC55-2022-08~~ *PSCC56/2023/04* Model forms
- PSCC52-2019-05 Operational control
- PSS43-2010-11 Flag State Exemptions
- ~~PSCC48-2015-09 RO responsibility~~
- PSCC51/*2018/13* Stopping an operation
- PSCC49-2016-11 Black-out test
- PSCC53-2020-06 Refusal of Access (Banning)
- PSCC50-2017-12 Structure bulk carriers/oil tankers
- PSCC43-2010-06 Dry Docking
- PSCC53-2020-11 Allowing for a single voyage to a repair yard for "accidental damage" deficiencies

SOLAS Convention

- ~~PSCC55-2022-09~~**PSCC56/2023/05** ISM Code
- PSCC54-2021-02 ISPS Code
- PSCC51-2018-12 ECDIS
- PSCC43-2010-32 VDR (Voyage Date Recorders)
- PSCC43-2010-09 Material Safety Data Sheets
- PSCC43-2010-21 GMDSS
- PSCC44-2011-16 Lifeboat on-load release hooks
- PSCC45-2012-10 Damage stability on tankers
- PSCC55-2022-05 LRIT
- PSCC43-2010-28 Thickness measurements ESP/CAS
- PSCC43-2010-29 Thickness measurement
- PSCC51-2018-11 Polar Code
- PSCC55-2022-02 IGF Code

MARPOL Convention

- PSCC46-2013-18 MARPOL Annex I OWS
- PSCC43-2010-39 MARPOL Annex II Stripping
- PSCC47-2014-08 MARPOL Annex III IMDG
- PSCC55-2022-07 MARPOL Annex IV Sewage
- PSCC52-2019-07 MARPOL Annex V Garbage
- ~~PSCC55-2022-11~~**PSCC56/2023/07** MARPOL Annex VI Air Pollution
- PSCC43-2010-38 Crude oil washing
- PSCC44-2011-20 MARPOL Investigation

International Load Line Convention

– PSCC54-2021-06 International Load Line Convention
AFS Convention

– PSCC47-2014-13 Anti Fouling Systems
Bunkers Convention

~~— PSCC43-2010-08 Bunker Convention~~

– ***PSCC56/2023/02 Conventions related to Financial Liability***
Certification of Seafarers and Manning

– ~~PSCC54-2021-04~~***PSCC56/2023/08*** Certification of Seafarers and Manning (STCW, MLC
and SOLAS)

Ballast Water Management Convention

– PSCC51-2018-09 Ballast Water Management Convention
ILO Conventions

– PSCC52-2019-10 Maritime Labour Convention 2006 (MLC)
– PSCC53-2020-14 Hours of Work or Rest and fitness for duty'

‘ANNEX VIII

PROVISIONS CONCERNING REFUSAL OF ACCESS TO PORTS AND ANCHORAGES
WITHIN THE COMMUNITY

(referred to in Article 16 *and Article 21.4*)

- (1) If the conditions described in Article 16(1) are met, the competent authority of the port in which the ship is detained for the third time shall inform the master of the ship in writing that a refusal of access order will be issued which will become applicable immediately after the ship has left the port. The refusal of access order shall become applicable immediately after the ship has left the port after the deficiencies leading to the detention have been remedied.
- (2) The competent authority shall send a copy of the refusal of access order to the flag State administration, the recognised organisation concerned, the other Member States, and the other signatories to the Paris MOU, the Commission and the Paris MOU Secretariat. The competent authority shall also update the inspection database with information on the refusal of access without delay.
- (3) In order to have the refusal of access order lifted, the owner or the operator must address a formal request to the competent authority of the Member State that imposed the refusal of access order. This request must be accompanied by a document from the flag State administration issued following an on-board visit by a surveyor duly authorised by the flag State administration, showing that the ship fully conforms to the applicable provisions of the Conventions. The flag State administration shall provide evidence to the competent authority that a visit on board has taken place. *The document may take the form of an official statement, which must be issued by the flag Administration and not by a recognised organisation.*
- (4) The request for the lifting of the refusal of access order must also be accompanied, where appropriate, by a document from the classification society which has the ship in class following an on-board visit by a surveyor from the classification society, showing that the ship conforms to the class standards stipulated by that society. The classification society shall provide evidence to the competent authority that a visit on board has taken place.
- (5) The refusal of access order may be lifted only after the period referred to Article 16 of this Directive has elapsed and the company must address a formal request to the port State

‘ANNEX XII

FUNCTIONALITIES OF THE INSPECTION DATABASE

(referred to in Article 24.1)

- (1) *The inspection database shall include at least the following functionalities:*
- *incorporate inspection data of Member States and all signatories to the Paris MOU,*
 - *provide data on the ship risk profile and on ships due for inspections,*
 - *calculate the inspection commitments for each Member State,*
 - *produce the high performance as well as the standard and low performance list of flag States, referred to in Article 16(1),*
 - *produce data on the performance of companies,*
 - *identify the items in risk areas to be checked at each inspection.*
- (1) *The inspection database shall have the capability to adapt to future developments and to interface with other Community maritime safety databases, including SafeSeaNet, which shall provide data on ships’ actual calls to ports of Member States and, where appropriate, to relevant national information systems.*
- (2) *A deep hyperlink shall be provided from the inspection database to the Equasis information system. Member States shall encourage that the public and private databases relating to ship inspection accessible through Equasis are consulted by the inspectors.’*
-