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Brussels, 08 November 2023

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## WORKING DOCUMENT

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From:	General Secretariat of the Council
To:	Working Party on Shipping
N° Cion doc.:	10126/23 ADD 1-4
Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/16/EC on port State control - Comments from Ireland

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Delegations will find, in Annex, comments from **Ireland** on the above mentioned subject.



Council of the  
European Union

Brussels, 3 November 2023  
(OR. en)

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Interinstitutional File:  
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13785/3/23  
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TRANS 395  
MAR 118  
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**NOTE**

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From:	General Secretariat of the Council
To:	Delegations
No. Cion doc.:	10126/23 + ADD 1-ADD 4
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2009/16/EC on port State control

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With a view to the Shipping Working Party meeting on 10 November 2023, delegations will find attached a revised Presidency compromise proposal.

Compared to the previous version (13785/2/23 REV 2), changes are marked in **bold underline** (new text) and ~~strikethrough~~ (deleted text). The text also includes linguistic corrections, marked with **grey highlight**.

General scrutiny and language reservation: all delegations.

Parliamentary scrutiny reservation: MT.

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 Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Directive 2009/16/EC of the European Parliament and of the Council<sup>3</sup> 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, on the protection of marine environment and ~~on on-board~~ living and working conditions ~~of~~ **on** ships of all flags.

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> OJ L 131, 28.5.2009, p. 57

- (2) Directive 2009/16/EC is based on the pre-existing voluntary 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 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 ~~of~~ the port State control system.
- (5) To allow for an 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 to~~ amending 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.

- (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 of 24 meters in length and above, considering ~~in~~ 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 effects onto the current port ~~state~~ 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 Member States are visited by these larger fishing vessels. Therefore, a voluntary system for those 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 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. **A separate module for the existing inspection database should be developed to this end.**
- (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 ship risk profile (SRP) which establishes the intervals between inspections and ~~the~~ their scope ~~of the same~~. Priority II ships may be inspected while Priority I vessels ~~shall~~ must be inspected.
- (9) Member States are permitted ~~to not~~ to carry out 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.** Since there may be a need to plan and prepare the expanded inspections, the need to notify is kept ~~in limited cases.~~
- (10a) In normal circumstances inspections of Priority II ships are not mandatory although Priority II vessels ~~ships~~ may be inspected. However, for ~~unburdened states~~ **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 ~~its~~ **their** annual inspection commitment. Since these inspections become, de facto, mandatory for ~~underburdened~~ **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** for these states these inspections of Priority II ships can be postponed. Member States and the Commission should make their best efforts, in the framework of the Paris Memorandum of Understanding, to propose the necessary measures and amendments to clarify and fulfil this objective, without prejudice to taking the technical measures to adjust the existing inspection database with regard to postponement.

- (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. 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. 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. Once the IMO agrees on an indicator that measures greenhouse gas emissions (GHG) intensity in a consistent manner, the Member States and the Commission could engage in discussions **at in** the first **place-instance** within **the** Paris MoU to include such **a** parameter in the ship risk profile.
- (12) On this basis, the ship risk profile should be updated to reflect environmental issues by attaching more importance to the environmental performance.
- (12a) A new methodology **has been was** adopted by **the** Paris MOU in 2019, establishing high, **medium-standard** and low performance lists, as an alternative **for 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 **es the** categorization 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 **to have** time to prepare and **to** carry out **the** 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 **in of** ro-ro passenger ships in regular service where the operation of the vessel may be considered.

- (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 and better prepared inspections.
- (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. There is therefore a need to ensure the upskilling and reskilling of the port State control officers and continuously develop their training.
- (15) [...]
- (16) In order to allow for an 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. 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-Making<sup>4</sup>. 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.

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<sup>4</sup> OJ L 123, 12.5.2016, p. 1.

- (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 and 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 Council<sup>5</sup>.
- (18) [...]
- (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 years after its date of application 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.
- (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, such as natural disasters, pandemics or public health emergencies, terrorist attacks, labour conflicts, it should not be counted as a missed inspection. These circumstances should be duly justified and reported to the Commission.**

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<sup>5</sup> 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).

(20b) 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 provisions of this Directive.<sup>6</sup>

(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 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).’;

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<sup>6</sup> *Under scrutiny by CLS; to be inserted in an appropriate place.*

(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, as amended.’;

(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 an overall 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. ~~An inspection is composed of one or several visits.~~’;

(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:

'"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:

'When inspecting a ship flying the flag of a State which is not a party to a Convention with a "no more favourable treatment clause", 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.';

(a) paragraph 4 is replaced by the following:

'4. Fishing vessels of less than 24 meters 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 is added:

‘4a. Member States may carry out port State control inspections of fishing vessels of 24 metres in length and above. The Commission, in cooperation with **the** Paris MoU, may adopt guidelines establishing the modalities of such a parallel **and separate** specific port State control regime for these fishing vessels.’;

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

‘2a. Inspections of ships carried out by Member States exceeding **20% of its** ~~its~~ **their** annual inspection commitments ~~by inspecting more than 20%~~ shall not be taken into account in the calculation of the annual inspection 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 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 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 of the total number of Priority I ships calling at its ports and anchorages.’;

(a) 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 are replaced by the following, and a 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 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 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.
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(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) ~~additionally in the case of a ship calling a port and~~ 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, ~~such as pandemic~~, 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.
5. ~~The i~~nspections postponed in accordance with paragraphs 1, 2, 3 or 4 and recorded in the inspection database shall not be counted for the ~~evaluation/assessment~~ of the Member State's compliance with ~~the~~ inspection commitment referred to in Articles 6 and 7.<sup>7</sup>;

(7) (deleted)

(8) Article 9 is deleted;

(9) In Article 10, paragraph 2 is replaced by the following<sup>7</sup>:

‘2. The risk profile of a ship shall be determined by a combination of generic, historical and environmental risk parameters as follows:

(a) Generic parameters

Generic parameters shall be based on the type, age, flag, recognised organisations involved and company performance in accordance with Annex I, Part I.1 and Annex II.

(b) Historical parameters

Historical parameters shall be based on the number of deficiencies and detentions during a given period in accordance with Annex I, Part I.2 and Annex II.

(c) Environmental parameters

Environmental parameters shall be based on the number ~~and being a ground for detention~~ of deficiencies relating to MARPOL, AFS, BWM Convention, CLC 92, Bunkers Convention, Nairobi Convention and Hong Kong Convention in accordance with Annex I, Part I.3 and Annex II, **and whether these deficiencies are grounds for detention.**<sup>7</sup>;

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<sup>7</sup> Reservation: the Commission (changes to environmental parameters in its proposal).

(9a) In Article 10, paragraph 3 is replaced by the following:

‘3. Implementing powers shall be conferred on the Commission to implement a methodology for the consideration of generic risk parameters relating in particular to the flag State criteria and company performance criteria adopted by ~~the~~ Paris MOU in 2019 establishing high, ~~medium~~ **standard** and low performance lists. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(3).’;

(9b) In article 13, letter (c) of paragraph (1) is replaced by the following:

‘(c) is satisfied ~~of~~ **with** the overall condition of the ship, including the hygiene of the ship, including ~~its~~ engine room and accommodation.’

(9c) In Article 13, paragraph 2 is deleted.

(10) Article 14 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. The following categories of ships are eligible ~~to~~ **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 or chemical tankers or bulk carriers, older than 12 years of age,
- ships with a high risk profile or passenger ships, oil tankers, gas 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 ~~replaced by the following~~ **deleted**:

~~‘3.— The operator, agent or master of a ship which is eligible for an expanded inspection and bound for a port or anchorage of a Member State, shall notify the estimated time of arrival, at least 72 hours in advance or before leaving the previous port or anchorage if the voyage is expected to take fewer 72 hours. On receipt of a pre-notification provided by a ship eligible for a periodic expanded inspection, the competent authority shall inform the ship if no expanded inspection will be carried out.’~~

(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. 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) Article 14a 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 **within** 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~~ **standard** 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 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 ~~falls~~ **appears** neither ~~into~~ **on** the low performance list nor **on** the ~~medium~~ **standard** 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 Council<sup>8</sup>,
- (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 6 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~~ **that appears on** the ~~medium~~ **standard** 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.’

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<sup>8</sup> 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.)’;

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

‘4a. 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 of a Union at the time of its first inspection in **the** Union after the third or any subsequent refusal of access ~~[of this ship]~~, shall:

a) be refused to access any Union port or anchorage for a period of 24 months, if the statutory and classification certificates of the ship are issued by an organisation or organisations recognised under Regulation (EC) No 391/2009;

b) be permanently refused access to any Union port or anchorage if the statutory or classification certificates of the ship are not issued by an organisation or organisations recognised under Regulation (EC) No 391/2009.

**4b.** Refusal of access periods for multiple detentions will be extended by 12 months when a refusal of access measure in accordance with Article 21.4 applies.’;

(12a) In Article 17, the first subparagraph is amended as follows:

‘On completion of an inspection, the inspector shall draw up a report in accordance with Annex IX. The ship’s master shall be provided with a copy of the inspection report.’;

(12b) In Article 20, paragraph 1 is replaced by the following:

‘1. The owner or operator of a ship or ~~his~~ **their** representative in the Member State shall have a right of appeal against any detention or refusal of access by the competent authority. An appeal shall not cause the detention or refusal of access to be suspended.

(13) Article 21 is amended as follows:

(a) paragraph 4 is replaced by the following:

‘4. Member States shall take measures to ensure that access to any port or anchorage within the Union is refused to ships referred to in paragraph 1 which proceed to sea and to ~~the~~ detained ships referred in Article 19.2 which proceed to sea:

- (a) without complying with the conditions determined by the competent authority of any Member State in the port of inspection; or
- (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 be lifted after a period of 12 months has passed and the conditions in paragraphs 3 to 6 of Annex VIII are met. The refusal of access order shall become applicable from the date of its issuing.’;

(aa) 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~~ ~~arrived~~ ~~or not~~. When the competent authority of the Member State where the ship was found defective ~~is becomes~~ aware that ship ~~didn’t~~ ~~has not~~ called ~~ed~~ 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 ~~is becomes~~ aware that ship ~~didn’t~~ ~~has not~~ called ~~ed~~ at ~~a~~ repair yard, it shall immediately alert the competent authorities of all the other Member States.’;

(b) paragraph 6 is replaced by the following:

‘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.’;

(14) In Article 22, paragraph 7 is replaced by the following<sup>9</sup>:

‘7. In cooperation with Member States and based on the expertise and the experience gained at Member State level in the Union and under the Paris MOU, the Commission may develop guidance and recommendations to improve the Paris MoU Training Policy.

In cooperation with the Member States and **the** Paris MoU, the Commission shall on a continuous basis identify and provide new training needs as input to amend the Paris MoU curricula, syllabi and content of the professional development and training programme for inspectors, especially as regards new technologies and in relation to the additional obligations arising from the relevant instruments.’;

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<sup>9</sup> Reservation: the Commission.

(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 from the arrival and the 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, as far as possible, before its transfer to the database, 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 is inserted<sup>10</sup>:

*‘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 and validation tool ~~of~~ **for** ~~electronic versions of~~ statutory certificates. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2).
2. Member States in their function as flag States opting to use the harmonised reporting interface and validation tool for ~~electronic versions of the~~ statutory certificates may do so to facilitate the transition to electronic certificates.
3. [...]
4. [...]

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<sup>10</sup> Reservation: the Commission.

(17) Article 25 is replaced by the following:

*Article 25*

Exchange of information and cooperation

Each Member State shall ensure that its port authorities or bodies and other relevant authorities or bodies provide the competent port State control authority with the following types of information in their possession:

- (a) information concerning ships which have failed to notify any information according to the requirements of this Directive, Directive 2002/59/EC and to Directive (EU) 2019/883 of the European Parliament and of the Council<sup>11</sup>, as well as, if appropriate, with Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security,
- (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.?’;

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<sup>11</sup> Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships (OJ L 151, 7.6.2019, p. 116).’

(18) Article 30 is replaced by the following<sup>12</sup>:

*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 may develop, implement and maintain a quality management system for the operational parts of the port State-related activities of its administration. Such **a** quality management system shall be certified in accordance with the applicable international quality standards.';

(19) 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, decisions and guidelines relating to port State control adopted by the Paris MOU set out in that Annex.'

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<sup>12</sup> Reservation: the Commission (voluntary QMS).

(20) [...] <sup>13</sup>

(21) Article 33 is replaced by the following:

*‘Article 33*

Implementing rules

When establishing the implementing rules referred to in Articles ~~2(2)~~, 10(3), ~~{14(4)}~~, 15(3), ~~{18a(7)}~~, 23(5) 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] [five] years from the date of entry into force of this amending Directive]* submit a report to the European Parliament and the Council on the implementation of, and compliance with, this Directive.’;

(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.

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<sup>13</sup> Reservation: the Commission (deletion of the non-regression clause)

(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: four years 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.<sup>14</sup>

## 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*.

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<sup>14</sup> *Under scrutiny by CLS.*

*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*



## ANNEX I

### **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.

(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.

## **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.

### 3. Environmental parameters<sup>15</sup>

Ships which, during inspection(s) carried out within the period referred to in Annex II have had more than the number of deficiencies ~~and being a ground for detention~~ relating to MARPOL, AFS, BWM Convention, CLC 92, Bunkers Convention, Nairobi and Hong Kong Conventions referred to in Annex II, **and at least one of these deficiencies is a ground for detention**, shall be considered as posing a 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.

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<sup>15</sup> Reservation: the Commission (changes to its proposal concerning environmental parameters)

## 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 this Directive and which may include information from Vessel Traffic Services about ships' navigation.
- Ships which have failed to comply with the relevant notification requirements referred to in Directive (EU) 2019/883/EC.
- Ships which have been the subject of a report or complaint, including an onshore complaint, by the master, a crew member, or any person or organisation with a legitimate interest in the safe operation of the ship, on-board living and working conditions or the prevention of pollution, unless the Member State concerned deems the report or complaint to be manifestly unfounded.
- Ships reported with an outstanding ISM deficiency (3 months after issuing of the deficiency).
- Ships which have been previously detained more than three months ago.
- Ships which have been reported with problems concerning their cargo, in particular noxious and dangerous cargoes.
- Ships which have been operated in a manner posing a danger to persons, property or the environment.
- Ships where information from a reliable source became known, to the effect that their risk parameters differ from those recorded and the risk level is thereby increased.
- Ships for which a plan of action to rectify deficiencies as referred to in Article 19(2a) has been agreed but in respect of which the implementation of that plan has not been checked by an inspector.

## 3. Selection scheme

3A. Priority I ships shall be inspected as follows:

(a) An expanded inspection shall be carried out on:

- any ship with a high risk profile not inspected in the last six months,
- any passenger ship, oil tanker, gas or chemical tanker, NLS tanker or bulk carrier, older than 12 years of age, with a standard risk profile not inspected in the last 12 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 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
- 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 low risk profile not inspected in the last 24 months.

(c) In case of an unexpected 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 or 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.

## ANNEX II

### 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 a	Weighting points	Criteria	Criteria		
1	Type of ship	Chemical tankship Gas carrier Oil tankship Bulk carrier Passenger ship <u>NLS</u>	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/ <u>ILO</u> instruments listed in Article 2 ratified	-		-	Yes	
3e		<del>E-Certificate</del>	<del>Statutory certificates are transmitted digitally to the information system<sup>16</sup></del>				
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							

<sup>16</sup> Reservation: the Commission.

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 <sup>17</sup>					
8	<del>Carbon Intensity Indicator (CI)</del>	Rating	<del>D-E</del>	+	
9	Number of deficiencies related to MARPOL, AFS, BWM, CLC 92, Bunkers, <del>and Nairobi</del> <b>and Hong Kong</b> Conventions recorded in each inspection within previous 36 months	Deficiencies	>3 in one of the inspections, <b><u>being one of them is ground for detention</u></b>	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

<sup>17</sup> Reservation: the Commission (changes to its proposal concerning environmental parameters)

**‘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);
  44. Dangerous goods manifest or stowage plan (SOLAS 1974, regulations VII/4 and VII/7-2; MARPOL, Annex III, regulation 54);
  45. For oil tankers, the record of oil discharge monitoring and control system for the last ballast voyage (MARPOL, Annex I, regulation 31.2);

46. Search and Rescue cooperation plan for passenger ships trading on fixed routes (SOLAS 1974, regulation V/7.3);
47. For passenger ships, List of operational limitations (SOLAS 1974, regulation V/30.2);
48. Nautical charts and nautical publications (SOLAS 1974, regulations V/19.2.1.4 and V/27);
49. Records of hours of rest and table of shipboard working arrangements (STCW Code section A-VIII/1.5 and 1.7, ILO Convention No.180 art. 5.7, art. 8.1 and MLC, 2006 Standard A.2.3.10 and A.2.3.12);
50. Unattended machinery spaces (UMS) evidence (SOLAS 1974, regulation II-I/46.3);
51. Certificates required under Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of shipowners for maritime claims;
52. Certificate required under Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents;
53. A certificate on the inventory of hazardous materials or a statement of compliance as applicable pursuant to Regulation (EU) No 1257/2013 of the European Parliament and of the Council; and
54. Document of Compliance issued under Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC.

**ANNEX IV**

‘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 instructions from the Paris MOU~~ **all technical instructions and circulars issued by Paris 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
- PSCC56/2023/06 Detention and Action Taken
- PSCC56/2023/04 Model forms
- PSCC52-2019-05 Operational control
- PSS43-2010-11 Flag State Exemptions
- 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

- PSCC56/2023/05ISM 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
- PSCC56/2023/07MARPOL 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

PSCC56/2023/02 [Conventions related to Financial Liability](#) Certification of Seafarers and Manning

- 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 V

### ‘ANNEX VIII

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

(referred to in Article 16 and Article 21.4)

- (2) 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.
- (3) 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.
- (4) 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 ~~be in~~take the form of an official statement, which ~~has to~~must be issued by the flag Administration and not by a recognised organisation.
- (5) 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.
- (6) 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 authority of the Member State that imposed the ban and provide the documents requested in paragraphs 3 and 4

- (7) Such a request including the required documents must be submitted to the banning State at least one month before the end of the ban period. If this deadline is not met, then a delay may occur of up to one month after the banning State received the request
- (8) The information system will add an overriding factor to the ship and the ship will be indicated liable for the inspection type “Expanded inspection” at its next call at port/anchorage in the region.
- (9) The competent authority shall also notify its decision in writing to the flag State administration, the classification society concerned, the other Member States, the other signatories to the Paris MOU, the Commission and the Paris MOU Secretariat. The competent authority must also update the inspection database with information on the removal of the access without delay.
- (10) Information relating to ships that have been refused access to ports within the Community must be made available in the inspection database and published in conformity with the provisions of Article 26 and of Annex XIII.’

ANNEX VI

‘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 ~~white~~ **high performance** as well as the ~~grey~~ **standard** and ~~black~~ **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.
- (2) 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.
- (3) 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.’