



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 28 March 2012

8239/12

**Interinstitutional File:
2012/0062 (COD)**

**MAR 37
TRANS 105
SOC 241**

COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 23 March 2012

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No Cion doc.: COM(2012) 129 final

Subject: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL amending Directive 2009/16/EC on port State control

Delegations will find attached Commission document COM(2012) 129 final.

Encl.: COM(2012) 129 final



EUROPEAN COMMISSION

Brussels, 23.3.2012
COM(2012) 129 final

2012/0062 (COD)

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)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Maritime Labour Convention (MLC), 2006 was adopted by the International Labour Organisation (ILO) with a quasi unanimous vote on 23 February 2006 in Geneva. It applies to international shipping and covers essential matters such as the minimum requirements for seafarers to work on board a ship (title I of the MLC), conditions of employment (title II of the MLC), accommodation, recreational facilities, food and catering (title III of the MLC), health protection, medical care, welfare and social security protection (title IV) and compliance and enforcement (title V) in order to guarantee decent working and living conditions on board ships, as well as procedures to implement these provisions. The Convention can be considered as the first maritime labour code for more than 1.2 million seafarers worldwide, as well as for shipowners and maritime nations around the world.

The EU Member States and the Commission have supported the ILO work on this matter from the outset. The EU sees a valuable input in the MLC which aims at establishing a level playing field in the worldwide maritime industry by setting common minimum standards for all flags and seafarers. In this respect, the EU has already adopted Council Decision 2007/431/EC of 7 June 2007 authorising Member States to ratify, in the interest of the European Community, the Maritime Labour Convention, 2006, of the International Labour Organisation¹. Some Member States have already ratified it (Spain, Bulgaria, Luxembourg, Denmark, Latvia, the Netherlands) and others are about to do so. On the substance, the Member States national legislations are generally more protective and detailed than the ILO standards. To maintain the consistency between the international and national standards and to ratify the Convention, an extensive and time consuming screening of the national legislations is the prerequisite.

At this stage, 22 countries have ratified the MLC representing more than 45% of the world fleet tonnage while 30 ratifications and 33% of the world fleet tonnage are required by the MLC to enter into force.

The EU also adopted Council Directive 2009/13/EC of 16 February 2009, implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC². Directive 2009/13/EC constitutes an outstanding achievement of the sectoral social dialogue.

To this end it is foreseen, on the one hand, to require Member States to apply Directive 2009/13/EC when they wield their powers as flag States. As things stand, through Directive 2009/13/EC, European legislation has been put in line with the international standards fixed by the MLC. This took up the relevant provisions of the MLC establishing rights for seafarers contained in its Titles I, II, III and IV above mentioned.

However, the European social partners, wishing to implement their agreement by means of a Council decision on the basis of Article 155 TFEU, do not have the power to include in their

¹ OJ L 161, 22.06.2007, p.63

² OJ L 124, 20.05.2009, p.30

Agreement the enforcement provisions contained in Title V of the MLC and asked the Commission to act in this respect. The present initiative aims precisely to do so on the port State responsibilities.

This initiative is part of the EU policy on the maritime professions. In fact, as stated by the Commission in its Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Strategic goals and recommendations for the EU's maritime transport policy until 2018³, there is a genuine EU interest in enhancing the attractiveness of the maritime professions to Europeans by means of actions that involve, where appropriate, the Commission, the Member States and the industry itself. This fully applies to the implementation of the MLC which considerably improves working and living conditions on board ships. The Communication underlines that the agreement between EU social partners on the implementation of key elements of this Convention demonstrates the wide support within the industry in this field and that, therefore, action of the EU and its Member States should aim to:

- move towards rapid ratification of the MLC by Member States and the early adoption of the Commission's proposals based on the social partners' agreement for implementing its key elements in EU law;
- ensure the effective enforcement of the new rules by means of adequate measures, including flag and port State control requirements.⁴

The White Paper on the Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system⁵ highlights the importance of a social agenda for the maritime transport to both promote jobs and enhance safety and the Staff Working Document accompanying the White Paper foresees a proposal to ensure effective enforcement of the MLC.

This proposal is closely associated with the Proposal for a Directive of the European Parliament and of the Council concerning the flag State responsibilities for the enforcement of Directive 2009/13/EC.

1.1. The Maritime Labour Convention

As generally acknowledged and explicitly stated by the ILO, the shipping industry is “the world's first genuinely global industry” which “requires an international regulatory response of an appropriate kind – global standards applicable to the entire industry”.

The MLC, adopted in 2006, provides comprehensive rights and protection at work for all seafarers regardless of their nationality and the flag of the ship.

The MLC aims to both achieve decent working conditions for seafarers and secure fair competition for quality shipowners. It sets out seafarers' rights to decent conditions of work on a wide range of subjects, and has been designed to be globally applicable, easily understandable, updatable and uniformly enforced. It has also been designed to become a global instrument known as the "fourth pillar" of the international regulatory regime for quality shipping, complementing the three key Conventions of the International Maritime

³ COM(2009) 8

⁴ See paragraph 3 of the Communication.

⁵ COM (2011) 144 final

Organization (IMO): the International Convention for the Safety of Life at Sea (SOLAS Convention), the International Convention on Standards of Certification, Training and Watch keeping (STCW Convention) and the International Convention for the Prevention of Pollution from Ships (MARPOL Convention).

It contains four Titles dealing with the seafarers' rights: Title 1 on minimum requirements for seafarers to work on board a ship; Title 2 on conditions of employment; Title 3 on accommodation, recreational facilities, food and catering; Title 4 on health protection, medical care, welfare and social security protection.

Moreover, the MLC, in its Title 5, contains mechanisms to improve supervision at all levels: the ship, the company, the flag State, the port State, the labour supplying State and the ILO system for a global and uniform compliance and verification. Indeed, together with a sound corpus of rules, a more effective enforcement and compliance system was needed in order to eliminate substandard ships for the sake of ship safety and security and environmental protection.

Therefore the EU has to provide means, through flag State and port State control to ensure that the relevant MLC maritime labour standards are applied on board all ships calling at EU ports, regardless of the nationality of the seafarers.

The enforcement of the MLC standards through flag State and port State control has also to be seen as a way to limit social dumping, which deteriorates working conditions on board, and penalises shipowners offering decent working conditions complying with the ILO rules.

1.2. The MLC Port State control responsibilities

The responsibility for ensuring that ships comply with the provisions of the relevant instruments rests upon the owners, masters and the flag States. However, some flag States fail to properly enforce such provisions. They therefore fail to fulfil their commitments contained in agreed international legal instruments or are being too lax in applying shipping standards and subsequently some ships are sailing in an unsafe condition, threatening the lives as well as the marine environment. In reaction to this matter of fact, this has led to the establishment of port state control.

Port States, as a system of harmonised inspection procedures, can exercise jurisdiction on those vessels calling at their ports and constitute a "safety net" to catch substandard ships with the main objective of their eventual elimination. In this context, it is imperative to develop close co-operation between flag States and port States.

As things stand, there are already port State control inspections covering social standards based on ILO conventions in particular under the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147) which refers to:

- _ Minimum Age Convention, 1973 (No. 138);
- _ Minimum Age (Sea) Convention (Revised), 1936 (No. 58);
- _ Minimum Age (Sea) Convention, 1920 (No. 7);
- _ Medical Examination (Seafarers) Convention, 1946 (No. 73);
- _ Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (Articles 4 and 7);
- _ Accommodation of Crews Convention (Revised), 1949 (No. 92);
- _ Food and Catering (Ships' Crews) Convention, 1946 (No. 68) (Article 5);

- _ Officers' Competency Certificates Convention, 1936 (No. 53) (Articles 3 and 4)
- Seamen's articles of agreement Convention, 1926 (No 22)
- Repatriation of Seamen Convention, 1926 (No 23)
- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No 87)
- Right to Organize and Collective Bargaining Convention, 1949 (No 98)

These conventions have been consolidated into the MLC, 2006, but they are still in force, since some parties might be willing to continue applying them without ratifying the MLC.

The MLC contains provisions on port State control, requiring compliance checks with its requirements on foreign ships calling at State parties' ports. Port States intervene as the second line of defence to enforce the MLC and to contribute to eliminating substandard shipping. The Convention also contains a "no more favourable treatment" clause. Under this clause, each State-party shall implement its responsibilities under the Convention in such a way so as to ensure that the ships that fly the flag of any State that has not ratified the Convention do not receive more favourable treatment than the ships that fly the flag of any State that has ratified it. This clause should encourage uniformity in connection with inspections and effectively contribute to a sound level-playing field for shipping.

In practice, the MLC defines a specific and simple procedure. An initial inspection is carried out to check the documents delivered by the flag State (the *maritime labour certificate* and a *declaration of maritime labour compliance*) and to make a tour of the ship to get an overview of the crew and ship's condition including engine room and accommodation and see whether they meet the appropriate standards. Depending on the professional judgement of port State control inspectors identifying clear grounds that ships conditions do not meet the international standards, more detailed inspections can be performed, especially in cases where the deficiencies would constitute clear hazard to the safety, health or security of seafarers as required by the MLC.

All complaints regarding conditions on board will be investigated thoroughly and action will be taken as deemed necessary by the port State control officer. If necessary, the ship will be detained until appropriate corrective action is taken.

ILO, like IMO, is an international rule-maker with a universal impact by means of continuous system of international conventions, rules, codes and recommendations. However, ILO has no direct authority on board of the ships and further legislation was needed at EU and national level.

1.3 Current EU legislation

1.3.1 Directive 2009/16/EC on Port State control⁶

At EU level, Directive 2009/16/EC aims at helping to drastically reduce substandard shipping by means of:

- (a) increasing compliance with international and relevant EU legislation on maritime safety, maritime security, protection of the marine environment and on-board living and working conditions of ships of all flags;

⁶ OJ L131, 28.5.2009, p.57

(b) establishing common criteria for inspecting ships by the port State and harmonising procedures on inspection and detention, building upon the expertise and experience under the Paris Memorandum of Understanding (Paris MoU⁷);

(c) implementing within the EU a port State control system based on the inspections performed within the Union and the Paris MoU region, aiming to inspect all ships with a frequency depending on their risk profile, with ships posing a higher risk being subject to a more detailed inspection carried out at more frequent intervals.

1.3.2 Directive 2009/13/EC

Following the agreement between the EU social partners, Directive 2009/13/EC implements certain standards of the MLC within Union law. Its annex, in particular, has incorporated the relevant elements of Titles 1, 2, 3 and 4 of the MLC on the minimum requirements to work on board ships (medical certificate, minimum age, training and qualifications), the conditions of employment (seafarer's employment agreements, repatriation, compensation for the ship's loss or foundering, manning level, career and skill development and opportunities for seafarers' employment), provisions on accommodation, recreational facilities, food and catering, the provisions on health protection, medical care and welfare including the shipowners' liability and access to shore based facilities and lastly the provisions on onboard complaint procedures.

Except as expressly provided otherwise, Directive 2009/13/EC applies to all ships whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES

The EU Member States actively took part in the MLC negotiations together with the Commission which organised the co-ordination of the EU positions. All EU member States adopted the MLC in 2006.

In addition, a fully fledged public consultation offered an opportunity for Member States and stakeholders to express their views in June 2011.

There was a general consensus on the need for updating the legislation related to flag State and port State in order to enforce the MLC requirements.

The specific positive effects which were underlined were reinforcing maritime safety, improving quality shipping, making the conditions of competition fairer between EU and non EU operators and between EU and non EU flags.

⁷ The organisation consists of 27 participating maritime Administrations and covers the waters of the European coastal States and the North Atlantic basin from North America to Europe. The current member States of the Paris MoU region are Belgium, Bulgaria, Canada, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Lithuania, Malta, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Slovenia, Spain, Sweden, United Kingdom.

Stakeholders also mentioned the better job quality for all seafarers, namely EU seafarers working on board EU flagged vessels, EU seafarers working on board non EU flagged ships, even beyond the EU, for non EU seafarers working on board non EU flagged ships.

The Task Force on Maritime Employment and Competitiveness, an independent body set up by Vice-President Siim Kallas in July 2010, which finalised its work in June 2011 and issued a Report⁸ containing policy recommendations on how to promote the seafaring profession in Europe has recommended the enforcement of the MLC.

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1 The content of the Proposal

3.1.1 Amendment of the Port State Control Directive

While Directive 2009/16/EC already refers to MLC (recital 5) and to ILO standards (Annex IV), it needs to be updated to take into account the new documents and arrangements brought in by the MLC.

Thus, the proposal amends the port State control Directive in order to:

- include the maritime labour certificate and the declaration of maritime labour compliance among the documents to be checked by inspectors;
- extend the scope of inspections to new items (for ex, the existence of an adequate labour contract signed by both parties for each seafarer with the required clauses in the contract);
- extend the scope of investigation in case of complaints and foresee the adequate procedure.

3.1.2 Detailed explanations of the proposal

Article 1 contains all the amendments to be brought in to Directive 2009/16 in order to align it to the MLC requirements.

A number of articles of the current Directive 2009/16/EC (articles 2;19) and annexes I; IV; V; X needed to be complemented to both make reference to the MLC among the list of international conventions and to mention the new documents deriving from the MLC, namely the maritime labour certificate and the declaration of maritime labour compliance.

On the substance, provisions on handling of complaints have been set up by the MLC with specific procedures to follow and which are slightly different from the provisions of Directive 2009/16 applicable to a wider range of matters than social standards. The objective is not to change the current system of complaint defined in Directive 2009/16 but to complement it by a procedure fitted to the complaints related to the MLC. Thus, specific provisions have been inserted in the proposal (Article 1 (7)).

⁸ Published on 20 July 2011: <http://ec.europa.eu/transport/maritime/seafarers/doc/2011-06-09-tfmec.pdf>

Besides, there are amendments related to the fact that Directive 2009/16/EC is being amended for the first time after the entry into force of the Treaty of Lisbon; the new rules on delegated and implementing powers needed to be introduced.

3.1.3 Explanatory documents accompanying the notification of transposition measures

Further to Joint Political Declarations (OJ 2011/C 369/02; OJ 2011/C 369/03), the Commission is now considering the need for explanatory documents on a case by case basis. By virtue of proportionality, explanatory documents have not been deemed justified in the present proposal since it modifies only a limited number of legal obligations of an existing directive. Thus, the present proposal does not include the recital on explanatory documents.

3.2 Legal basis

Article 100(2) of the Treaty on the Functioning of the European Union

3.3 Subsidiarity principle

Harmonised rules on enforcement across the EU should contribute to establishing a level playing field in order to both avoid distortions of competition in the internal market at the expense of maritime safety and to ensure decent working and living conditions for all seafarers regardless of their nationality. In particular the experience of port State control at EU level has proved efficient to ensure better surveillance of ships calling at EU ports by pooling resources and exchanging information.

3.4 Proportionality principle

The enforcement of the MLC by means of port State control subject to EU rules appears to be the most effective way of ensuring compliance with that Convention by using existing tools.

3.5 Choice of instruments

In a context of minimum standards to be implemented by Member States by measures in their own national systems and in the field of shared competences, the appropriate instrument is a directive.

3.6 Entry into force

This Directive shall enter into force on the date of entry into force of the Maritime Labour Convention, 2006.

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,

After transmission of the draft legislative act to the national Parliaments,

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

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) On 23 February 2006, the International Labour Organisation adopted the Maritime Labour Convention, 2006 (the Convention), desiring to create a single, coherent instrument embodying as far as possible all up-to-date standards of existing international maritime labour Conventions and Recommendations, as well as the fundamental principles to be found in other international labour conventions.
- (2) Council Decision 2007/431/EC of 7 June 2007³ has authorised the Member States to ratify the Convention. Member States should ratify it as soon as possible.
- (3) The Convention sets out maritime labour standards for all seafarers regardless of their nationality and of the flag of the ships.
- (4) An important part of the Standards of the Convention are implemented within EU law by means of Council Directive 2009/13/EC of 16 February 2009 and Directive 1999/63/EC. Those standards of the Maritime Labour Convention which are covered

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ L 161, 22.6.2007, p. 63.

by the scope of Directive 2009/13/EC and/or Directive 1999/63/EC should be implemented by the Member States in line with the mentioned Directives.

- (5) The Convention contains enforcement provisions defining the responsibilities of port States. In order to protect safety and to avoid distortions of competition, Member States should be allowed to verify compliance with the provisions of the Convention by any ship calling at their ports, irrespective of the State in which they are registered.
- (6) Port State control is governed by Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control⁴, which should include the Convention among the conventions whose implementation is verified by Member States' authorities in Union ports.
- (7) The rules of the Union should also reflect the procedures set out in the Convention with regard to the handling of complaints relating to the matters it deals with.
- (8) In order to ensure uniform conditions for its implementation, Directive 2009/16/EC should be amended in order to confer implementing powers on the Commission. The Commission should be entitled to adopt implementing acts for the use of a harmonised electronic format for the reporting and follow-up of such complaints by port State authorities, as well as for the establishment of the ship risk profile criteria based on article 10 of Directive 2009/16/EC. This is in fact a highly technical exercise to be carried out in the framework of the principles and criteria which have been established by that Directive. Those powers should be exercised in accordance with 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 Member States of the Commission's exercise of implementing powers⁵.
- (9) 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 amendments to Annex VI to Directive 2009/16/EC containing the list of the 'Instructions' adopted by the Paris MOU, with a view to keeping the procedures applicable and enforceable in the territory of the Member States, in line with those agreed upon at international level. The possibility for the Commission to swiftly update those procedures would contribute to achieving a global level-playing field for shipping. It is of particular importance that the Commission should carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (10) Part of the obligations contained in this Directive will not be applicable to Member States without sea shores and sea ports. Consequently, the only obligations which will be applicable to Austria, the Czech Republic, Hungary, Luxembourg and Slovakia are those obligations concerning ships flying the flag of those Member States, without prejudice to Member States' duty of cooperation to ensure continuity between maritime and other modal traffic management services.

⁴ OJ L131, 28.5.2009, p. 57.

⁵ OJ L 55, 28.2.2011, p. 13.

- (11) Since the objectives of this Directive cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the action, 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. 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.
- (12) Directive 2009/16/EC should therefore be amended accordingly.
- (13) This Directive should enter into force on the same date as the Maritime Labour Convention.

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 point (i) is added:

'(i) the Maritime Labour Convention, 2006;'

(b) in point 3, the following words are added at the end of the sentence:

'or its up-to-date version'.

(c) in point 18, the following words are added at the end of the sentence:

'in its up-to-date version.'

(d) in point 21, the following words are added at the end of the sentence:

'in its up-to-date version.'

(e) the following points 23 and 24 are added:

'(23) "Maritime labour certificate" means the certificate referred to in Regulation 5.1.3 of the Maritime Labour Convention.'

(24) "Declaration of maritime labour compliance" means the declaration referred to in Regulation 5.1.3 of the Maritime Labour Convention.'

(f) the following paragraph is added:

'All the references to the Conventions referred to in this Directive, including for certificates and other documents, shall be deemed to be references to those Conventions in their up-to-date versions'.

(2) In Article 3, the following paragraph 5 is added:

"5. The application and/or interpretation of this Directive shall under no circumstances constitute grounds for justifying a reduction in the general level of protection of workers under Union social legislation."

(3) In Article 8, paragraph 4 is deleted.

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

'3. Implementing powers shall be conferred on the Commission to establish the methodology for assessing generic and historical risk parameters provided for therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(3).'

(5) In Article 14, paragraph 4 is replaced by the following:

'4. The scope of an expanded inspection, including the risk areas to be covered, is set out in Annex VII. Implementing powers shall be conferred on the Commission to determine the detailed features to be checked in the risk areas indicated in this Annex. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(3).'

(6) In Article 15, paragraph 4 is replaced by the following:

'4. Implementing powers shall be conferred on the Commission to determine in detail harmonised modalities of putting into effect the procedures described in the Instructions referred to in Annex VI, including with respect to the checks referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(3).'

(7) The following Article 18a is inserted :

'Article 18a

Complaints related to the Maritime Labour Convention

1. Where a complaint related to matters covered by the Maritime Labour Convention has not been resolved at the ship-board level, the port State control officer shall forthwith notify the flag State, seeking, within a prescribed deadline, advice and a corrective plan of action. A report of the inspection shall be transmitted by electronic means to the inspection database referred to in Article 24.

2. In order to ensure uniform conditions for the implementation of this Article, implementing powers shall be conferred on the Commission regarding the setting up of a harmonised electronic format and procedure for the reporting of follow-up actions taken by Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(3).

(8) In Article 19, the following paragraph is added:

'11. On matters covered by the Maritime Labour Convention, the competent authority shall also inform forthwith the appropriate shipowners and seafarers' organisations in the port State in which the inspection was carried out.'

(9) In Article 23, paragraph 5 is replaced by the following:

'5. Implementing powers shall be conferred on the Commission to establish harmonised forms for the reporting of anomalies by pilots and port authorities and the recording of follow-up actions, the procedures to be followed, and the modalities and technical media to be used. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(3).'

(10) In Article 27, the second paragraph is replaced by the following:

"Implementing powers shall be conferred on the Commission to establish the modalities of publication of the information referred to in the above paragraph, the criteria for aggregating the relevant data and the frequency of updates. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 31(2).'

(11) The following Articles 30a and 30b are inserted

'Article 30a

Delegated acts

The Commission shall be empowered to adopt delegated acts in accordance with Article 30b, concerning amendments to Annex VI to this Directive, in order to add to the list set out in that Annex further instructions relating to port State control adopted by the Paris MOU Organisation.

Article 30b

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 30a shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Directive.
3. The delegation of power referred to in Article 30a may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 30a shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

(12) Article 31 is replaced by the following:

'Article 31

Committee

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) established by Article 3 of Regulation (EC) No 1406/2002 of the European Parliament and the Council. That Committee shall be a committee withing the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

4. Where, in the cases laid down in paragraphs 2 and 3 above, the opinion of the committee is to be obtained by written procedure, that procedure shall be determined without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.'

(13) Article 32 is repealed.

(14) In point II 2B of Annex I, the following indents are added :

'- Ships flying the flag of a State which has not ratified one or more of the Conventions listed under Article 2 point 1.';

'- Ships whose documentation shows no evidence that an agreed plan of action to rectify non conformities as referred to in Standard A5.2.1(6) of the MLC has been implemented.'

(15) In Annex IV, the following points 45 and 46 are added:

'45. Maritime labour certificate (see ILO Maritime Labour Convention (MLC)) ;

46. Declaration of labour compliance (ILO MLC)'

(16) In Annex V point A, the following points 16, 17 and 18 are added:

'16. The MLC required documents are not produced or maintained or are falsely maintained or the documents produced do not contain the information required by the MLC or are otherwise invalid.

17. The working and living conditions on the ship do not conform to the requirements of the MLC.

18. The ship has changed flag for the purpose of avoiding compliance with the MLC.'

(17) In point 3.10. of Annex X, the following points 8 and 9 are added:

'8. The conditions on board are clearly hazardous to the safety, health or security of seafarers;

'9. The non conformity constitutes a serious or repeated breach of the requirements of the MLC (including seafarer's rights).

Article 2

Transposition

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 12 months after the date of entry into force of 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 shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

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.

Article 3

Entry into force

This Directive shall enter into force on the date of entry into force of the Maritime Labour Convention, 2006.

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