



Council of the  
European Union

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6432/16  
ADD 1

MAR 61  
TRANS 54

**"I/A" ITEM NOTE**

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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No. prev. doc.: 5570/16 MAR 17 TRANS 23  
No. Cion doc.: 15518/15 MAR 181 TRANS 421 + ADD 1 + ADD 2

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Subject: Proposal for a Council Decision on the position to be adopted, on behalf of the European Union, in the Port State Control Committee of the Paris Memorandum of Understanding on Port State Control

- *Adoption*
- *Statement*

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Delegations will find attached a statement by Bulgaria, Croatia, Estonia, France, Ireland, Latvia, Lithuania, Luxembourg, Poland, Portugal, Romania, Slovenia and Spain to the minutes of the Council.

**Statement by Bulgaria, Croatia, Estonia, France, Ireland, Latvia, Lithuania, Luxembourg, Poland, Portugal, Romania, Slovenia and Spain in respect of the Proposal for a Council Decision on the position to be adopted, on behalf of the European Union, in the Port State Control Committee of the Paris Memorandum of Understanding on Port State Control**

The method to measure flag state performance was introduced for the first time by the former Port State Control regime, within the Paris MoU. Each year, the “black/grey/white” (BGW) list is published which presents the full spectrum, from quality flags to flags with a poor performance that are considered high or very high risk.

The BGW list is compiled using a specific mathematical method to classify ship registries into three groups – white, grey and black – where black listed flags perform worse than average and white listed flags perform better. Since the very beginning of the BGW list, the underlying calculation method has created an unequal effect on those countries which have comparatively small fleet placing them into disadvantageous position comparing to those with a bigger fleet. For almost 10 years the issue has been under scrutiny within various EU fora.

The compelling need for a fair BGW methodology has become even more critical after the Port State Directive 2009/16/EC came into force. In order to classify for any preferred treatment under the recast EU directive, a flag State needs to be on the white list. Given this new incentive, the current method of calculation leaves Member States with smaller fleets in a situation where being on the grey performance list is a matter of incident rather than systematic trend. At the moment there are five EU Member States on the grey list already.

Although the recital 15 was included in the new Port State Directive 2009/16/EC: “(15) *Member States should endeavour to review the method of drawing the white, grey and black list of flag States in the framework of the Paris MOU, in order to ensure its fairness, in particular with respect to the way it treats flag States with small fleets.*”, no tangible progress was made.

Further evasion from the concrete action on this matter is unacceptable and will jeopardize attractiveness of involved Member State's ship registries and thus may result in flagging out and relocation trend.

The wording which only anticipates some kind of urgent action, e.g. as soon as possible, is not vigorous enough to trigger immediate and necessary action to seek for a solution, as are the recitals explaining the issue. History has proven that general references in a recital do not encourage persistent action to solve the issue.

Although the Presidency at the COREPER I meeting on 19 February 2016 confirmed that the wording "as soon as possible" refers to the multi-annual framework Council decision, covering the period of 2016–2019, it is of paramount importance to include in the text a concrete time frame – May 2018 – within which the Member States, which are bound by the Paris MOU, acting jointly in the interest of the Union, shall endeavour to support the development of an alternative method of drawing up the white, grey and black list of flag States.

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