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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2009/16/EC on port State control - Outcome of the European Parliament's first reading and Corrigendum procedure (Strasbourg, 10 April 2024 and 22 October 2024)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint Declaration on practical arrangements for the co-decision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this legislative file at first reading.

This file was expected² to undergo the Corrigendum procedure³ in the European Parliament after adoption by the outgoing European Parliament of its position at first reading.

¹ OJ C 145, 30.6.2007, p.5.

² 10819/24 + COR 1.

³ Rule 251, EP Rules of Procedure.

II. VOTES

At its sitting of 10 April 2024, the European Parliament adopted amendment 41 (without legal linguistic revision) to the Commission proposal and a legislative resolution, constituting the European Parliament's position at first reading. It reflects what had been provisionally agreed between the Institutions.

After finalisation of the adopted text by the legal linguists, the European Parliament approved on 22 October 2024 a corrigendum to the position adopted at first reading.

With this corrigendum, the Council should be able to approve the position of the European Parliament as set out in the Annex⁴ hereto, thus bringing to a close the first reading for both Institutions.

The act would then be adopted in the wording which corresponds to the European Parliament's position.

⁴ The text of the corrigendum is set out in the Annex. It is presented in the form of a consolidated text, where changes to the Commission's proposal are highlighted in bold and italics. The symbol "■" indicates deleted text.

P9_TA(2024)0201

Amending Directive 2009/16/EC on port State control

European Parliament legislative resolution of 10 April 2024 on the proposal for a directive of the European Parliament and of the Council amending Directive 2009/16/EC on port State control (COM(2023)0271 – C9-0191/2023 – 2023/0165(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0271),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0191/2023),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 20 September 2023¹,
 - after consulting the Committee of the Regions,
 - having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 15 March 2024 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Fisheries,
 - having regard to the report of the Committee on Transport and Tourism (A9-0419/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C, C/2023/876, 8.12.2023, ELI: <http://data.europa.eu/eli/C/2023/876/oj>.

Position of the European Parliament adopted at first reading on 10 April 2024 with a view to the adoption of Directive (EU) 2024/... 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,

After consulting the Committee of the Regions **■** ,

Acting in accordance with the ordinary legislative procedure²,

¹ OJ C, C/2023/876, 8.12.2023, ELI: <http://data.europa.eu/eli/C/2023/876/oj>.

² Position of the European Parliament of 10 April 2024.

Whereas:

- (1) Directive 2009/16/EC of the European Parliament and of the Council³ sets out rules on the system for port State control inspections, whereby eligible ships calling *at* Union ports are inspected to check whether the competence ■ 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 the marine environment *and on living and working conditions on ships of all flags*.
- (2) Directive 2009/16/EC is based on the pre-existing voluntary *agreement* of the Paris Memorandum of Understanding on port State control signed on 26 January 1982 (the ‘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 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 (IMO), and technological developments. Those changes as well as the experience gained from the implementation of Directive 2009/16/EC should be taken into account.

³ Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).

- (4) A number of international conventions have been ratified by the Member States and have entered into force since 2011. Those are the International Convention for the Control and Management of Ships' Ballast Water and Sediments adopted on 13 February 2004 (the 'BWM Convention') and the Nairobi International Convention on the Removal of Wrecks adopted on 18 May 2007 (the 'Nairobi Convention'). Those international conventions should therefore be included in the list of **Conventions covered by Directive 2009/16/EC**, to allow them to be enforced as *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 the need *to amend* Directive 2009/16/EC in its entirety. Therefore, once an agreed level of ratification is reached for an international Convention, thus triggering its entry into force, and following its adoption by the State signatories of the Paris MoU as a relevant instrument, the list of Conventions referred to in Directive 2009/16/EC should be updated by the Commission.
- (6) The Hong Kong International Convention for the safe and environmentally sound recycling of ships adopted on 15 May 2009 (the 'Hong Kong Convention') will enter into force on 26 June 2025. Directive 2009/16/EC should provide for the enforcement of that Convention.

- (7) *International agreements and conventions in fisheries, such as the Cape Town Agreement of 2012 on the Implementation of the Provisions of the 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977 (the ‘Cape Town Agreement’), the International Labour Organisation Convention 188 on Work in Fishing of 2007 and the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel of 1995 (STCW-F) can improve the safety of fishing vessels and the working and living conditions of the fishermen on board and create a more level international playing field in that sector.*
- (8) Due to their small size, most fishing vessels in the Union operate in territorial waters and are not likely to be inspected in foreign ports. That means that, in general, only larger fishing vessels *of 24 metres in length and over, considering length as defined in the Cape Town Agreement*, which are also the fishing vessels ■ most often subject to international conventions, are likely to engage in international waters and call at ports *other* than those in the country where they are registered and therefore *to* be subject to *port State control*. As the majority of the international conventions applicable to larger fishing vessels are different from those *that* are currently enforced through port State control and to avoid undesirable *spill-over* effects onto the current port State control system, a parallel and separate system of port State control for fishing vessels should be established. ■

- (9) However, due to the patterns of fishing, not all Member States are visited by such larger fishing vessels. Therefore, for those Member States that wish to carry out such inspections, a voluntary system which is *parallel and* separate from the current port State control regime should be established to provide flexibility in the way that standards are developed in port State control. Such a system of port State control for fishing vessels of 24 metres in length *and over* can therefore be developed organically by Member States, the State signatories of the Paris MoU and the Commission *without incorporating such vessels into the current Paris MoU, in order to enhance cooperation on port State control across the Union ports that receive such vessels and to enhance safety in the fishing industry, including the health and safety of the fishermen on board. To that end, a separate module for the existing inspection database should be developed. Such a voluntary system could help Member States in the context of the ratification procedure of the Cape Town Agreement and prepare for its entry into force, as authorised by Council Decision 2014/195/EU⁴, in order to establish the highest practicable standards for the safety of larger fishing vessels.*

⁴ Council Decision of 17 February 2014 authorising Member States to sign, ratify or accede to the Cape Town Agreement of 2012 on the Implementation of the Provisions of the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977 (OJ L **106**, **9.4.2014**, p. 4).

- (10) The fair share mechanism provides for a distribution of the inspection burden among the State signatories of the Paris MoU. Each State signatory is allocated a certain number of inspections. That number represents its inspection commitment or 'fair share', which is to be carried out each year. The eligibility of a ship for inspection is primarily determined by the length of time ■ since the last inspection, *in conjunction with the ship risk profile, which establishes the intervals between inspections as well as the scope of the inspections*. Priority II ships may be inspected while Priority I ships *must* be inspected.
- (11) Member States should be permitted *not to carry out* a certain number of 'Priority' inspections without impacting compliance with their inspection commitment. For some Member States, the number of Priority ships that actually call at their ports during a given year can either exceed or be less than the allocated inspection commitment. An alternative method of compliance to the fair share mechanism for those (over-burdened or under-burdened) Member States was found to be inflexible, and it is therefore necessary to align the provisions concerned with those of the Paris MoU.

- (12) Member States are also allowed to postpone inspections of ships under certain circumstances, provided that the ship is inspected in the next port of call or within 15 days. That possibility should be adapted so that all Member States have the possibility to avail themselves of it. Certain categories of ships 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 at a port 72 hours in advance of their arrival. However, after a number of years, it was concluded that that obligation was too burdensome on operators and added no value as the information about the estimated time of arrival is already more easily available to the national authorities in the THETIS database. On that basis, the Paris MoU abolished the pre-arrival notification obligation *and* Directive 2009/16/EC should therefore be aligned accordingly.
- (13) *Under normal circumstances, inspections of Priority II ships are not mandatory, but optional. However, Member States which do not receive enough calls of ships that are eligible for inspection to fulfil their annual commitment need to inspect Priority II ships in order to reach their annual inspection commitment. Since, for those Member States, those inspections become de facto mandatory inspections, more flexibility for inspections of Priority II ships might be needed, specifically for such Member States. Therefore, it should be possible for such Member States to postpone those inspections provided that they justify such postponement.*
- (14) *If an inspection is not performed due to extraordinary and unforeseen circumstances that render it impossible to carry out an inspection, such as a natural disaster, pandemic, public health emergency or terrorist attack, it should not be counted as a missed inspection. Those circumstances should be duly justified and reported to the Commission.*

- (15) Over the last decade and despite increases in the number of vessels calling at Union ports, including the short sea shipping transport of goods between main ports in Member States and ports situated in geographical Europe or in non-European countries on the Mediterranean and the Black Sea, the safety profile of ships calling at Union ports has improved. Port State control inspections are being increasingly used to enforce environmental laws, such as in relation to sulphur emissions or the safe and environmentally sound recycling of ships. In *that regard, the Union, in line with its commitments related to the protection of the marine environment*, should continue *exerting* its leadership in a sector regulated both at European and international level. However, the ship risk profile devised prior to 2009 had different priorities and is not fully adapted to focussing on the inspection effort on the least environmentally performing ships. Therefore, the ship risk profile should be updated to reflect environmental issues by attaching more importance to the environmental performance of ships.
- (16) *After* the IMO has concluded the revision of its carbon intensity indicator (CII), the Commission should *assess the suitability of that CII as an environmental parameter* used for the determination of a risk profile of a ship under Directive 2009/16/EC *and consider a legislative proposal, as appropriate.*

- (17) *A new methodology was adopted under the Paris MoU in 2019, establishing high, medium and low performance lists, as an alternative to the white, grey and black lists of flag States. When adopting the relevant implementing acts, special attention should be paid to that methodology, which establishes a categorisation of flag States. The implementation, under this Directive, of that methodology should ensure fairness, in particular with respect to the way flag States with small fleets are treated.*
- (18) *Since port State control officers need time to prepare and carry out inspections, it is important to ensure that sufficient time is available. That is particularly relevant in the case of expanded inspections, and also for inspections of ro-ro passenger ships in regular service, where the operation of the vessel can be considered.*
- (19) *Due to the scope of expanded inspections, they should be carried out by at least two port State control inspectors. Where that is not possible for objective reasons, such as the specificities of the port (limited staff, problems of accessibility), because the notice for the arrival was too short or because the expanded inspection becomes necessary due to unexpected or overriding factors, the reasons should be duly recorded.*

- (20) 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 **greater** use of electronic certificates, to allow for more **ship-focussed** **and** better prepared inspections. ■
- (21) Port State control has been increasing in complexity as new inspection requirements are added, either under Union law or by the IMO *as testimony to the close interlinkage between health, safety, security and social considerations*. There is therefore a need to ensure the upskilling and reskilling of port State control officers and to continuously develop their training. *That will enable* the competent authorities of the port *States to verify compliance with applicable international conventions on maritime safety and security, on protection of the marine environment and on living and working conditions on-board, in respect of the ships calling at their ports. In conducting such monitoring activities, the port State is not to interfere with the competences of the flag State, as set out in Directive 2013/54/EU of the European Parliament and of the Council*⁵. ■

⁵ Directive 2013/54/EU of the European Parliament and of the Council of 20 November 2013 concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention, 2006 (OJ L **329**, **10.12.2013**, p. 1).

- (22) Flag State administrations of Member States are required, in line with Directive 2009/21/EC of the European Parliament and of the Council⁶, to have a quality management system in order to help Member States to further improve their performance as flag States and to ensure a level playing field between administrations. A similar requirement for the port State control administrations should allow Member States to certify that the organisation of those administrations, as well as their policies, processes, resources and documentation, is appropriate to achieve the objectives **■** of this Directive. *To ensure that Member States have sufficient time to implement that requirement, the certification of that quality management system should be aligned with the usual audit interval for the system that already exists under Directive 2009/21/EC.*

⁶ Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 on compliance with flag State requirements (OJ L 131, 28.5.2009, p. 132).

- (23) In order to allow for the application of Directive 2009/16/EC to be brought up to date to allow Member States to fulfil their obligations under international law in accordance with that 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* updating the list of Conventions within the scope of Directive 2009/16/EC and amending the list of procedures and guidelines relating to port State control adopted under 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-Making⁷. 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.

⁷ OJ L 123, 12.5.2016, p. 1.

(24) In order to ensure uniform conditions for the implementation of the provisions of Directive 2009/16/EC concerning the list of Conventions *within* its scope, the ■ conditions for the application of Annex VII on expanded inspections, the uniform set of safety and security guidelines and procedures, as well as the requirements for electronic certificates, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁸.

■

(25) 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 that Directive for the first time no later than 5 years after the date of *transposition* of this amending Directive and report to the European Parliament and the Council thereon. Member States should cooperate with the Commission to gather all information necessary for that evaluation. *Subsequent evaluations should take place at 5 year intervals.*

⁸ 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).

- (26) 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.

(27) *In order not to impose a disproportionate administrative burden on landlocked Member States, a de minimis rule should allow such Member States to derogate from the obligation to transpose and implement this Directive, as long as they meet certain criteria.*

(28) 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, first paragraph, is amended as follows:

(a) *point 1 is amended as follows:*

(i) *point (d) is replaced by the following:*

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

(ii) the following points ■ are added:

‘(l) *the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (the ‘BWM Convention’);*

(m) *the Nairobi International Convention on the Removal of Wrecks, 2007 (the ‘Nairobi Convention’);*

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

(b) point 3 is deleted;

(c) *the following point is inserted:*

‘8a. “Inspection” means a verification of the condition of the ship, its equipment and its crew, based on the applicable Conventions and carried out by an inspector. The inspection is not a survey for the issuing, endorsement or renewal of statutory certificates, and the ensuing inspection report provided to the master of the ship is not a certificate.’;

(d) *points 11, 12 and 13 are replaced by the following:*

‘11. “Initial inspection” means an inspection on board a ship by an inspector, including at least the checks required under Article 13(1).

12. “More detailed inspection” means an inspection that includes the elements of an initial inspection where the ship and 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.

13. “Expanded inspection” means an inspection that includes at least the items listed in Annex VII and the elements of an initial inspection. An expanded inspection may include a more detailed inspection whenever there are clear grounds in accordance with Article 13(3).’;

(e) *point 20 is replaced by the following:*

‘20. “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) *paragraphs 3 and 4 are replaced by the following:*

‘3. When inspecting a ship flying the flag of a State which is not a party to a Convention, Member States shall ensure that the treatment of that ship and its crew is not more favourable than that of a ship flying the flag of a State party to that Convention. Such a ship shall be subject to a more detailed inspection in accordance with procedures established under the Paris MoU. However, a ship flying the flag of a State which is not a party to the CLC 92, the Bunkers Convention, 2001, or the Nairobi Convention shall not be automatically subject to a more detailed inspection if that ship carries the relevant certificate issued by a State which is a party to those conventions and the inspector performing the inspection decides that a more detailed inspection is unnecessary. That decision and the reasons therefore shall be recorded in the inspection database.

4. Fishing vessels *of less than* 24 metres *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 determined in accordance with the Cape Town Agreement of 2012 on the Implementation of the Provisions of the 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977.*’;

(b) the following paragraph ■ is inserted:

- ‘4a. ■ Member States may carry out port State control inspections of fishing vessels of ■ 24 metres *in length and over*. The Commission, *in cooperation with the State signatories to the Paris MoU, may adopt guidelines* establishing the detailed arrangements for such a *parallel and separate* specific port State control regime for *those* fishing vessels ■ .’;

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

‘2a. Inspections of ■ ships carried out by a Member State *that exceed the annual inspection commitment of that Member State by 20 % or more* shall not be taken into account when calculating the annual inspection *commitments* of the parties to the Paris MoU.’;

(4) Article 6 is replaced by the following:

‘Article 6

Detailed arrangements for compliance with the inspection commitment

1. A Member State which fails to carry out the inspections required under Article 5(2), point (a), shall *nevertheless* be regarded as *complying* with that requirement 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.

2. Notwithstanding the percentage of missed inspections referred to in *paragraph 1*, 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.
3. Notwithstanding the percentage of missed inspections referred to in *paragraph 1*, 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) in Article 7, the title and paragraphs 1 and 2 are replaced by the following:

‘Article 7

Detailed arrangements for a balanced inspection commitment across 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), point (b), shall be regarded as complying with its annual inspection commitment if the number of inspections carried out by that Member State corresponds to at least its inspection share as referred to in Article 5(2), point (b), and that Member State does not miss more than 40 % of the total number of Priority I ships calling at its ports and anchorages.*

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 Priority II ships of the total number of Priority I and Priority II ships calling at its ports and anchorages.’;

(6) Article 8 is amended as follows:

- (a) paragraphs 1, **2 and 3** are replaced by the following:

‘1. A Member State may decide to postpone the inspection of a Priority I or Priority II ship in any of the following circumstances:

- (a) if the inspection could be carried out at *any subsequent* call of the ship in the same Member State within 15 days *of the actual time of departure*, provided that the ship does not call at any other port within the Union or the Paris MoU region in between, *except any ports of the ship’s flag State*;

- (b) if the inspection could be carried out in another port of call within the *Union* or the Paris MoU region within 15 days *of the actual time of departure*, provided that the State in which such *a* port of call is located has agreed in advance to carry out that inspection; *or*
- (c) *if the inspection of a ship, including ro-ro passenger ships or high-speed passenger craft operating on a regular service, could be carried out in the same port of call within 15 days of the actual time of departure.*

Where a Member State decides to postpone an inspection pursuant to the first subparagraph, that postponed inspection shall not count towards that Member State's compliance with its annual inspection commitment referred to in Articles 6 and 7 if the postponed inspection is recorded as such in the inspection database.

2. Where an inspection is not carried out 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 not carrying out the inspection is recorded in the inspection database and any of the following exceptional circumstances apply:
- (a) the competent authority considers that the inspection would create a risk to the safety of inspectors, the ship or its crew, or to the port, or to the marine environment;
 - (b) the ship call at port takes place only during night time ■ ; *or*
 - (c) *the duration of the ship call is too short for the inspection to be carried out satisfactorily.*

Where the circumstances under point (b) apply, Member States shall take the measures necessary to ensure that ships which regularly call during night time are inspected as appropriate.

3. *If an inspection is not carried out 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 Union or the Paris MoU region in accordance with Annex I within 15 days of the actual time of departure;*
 - (b) *the ship call at port takes place only during night time or the duration of the call is too short for the inspection to be carried out satisfactorily, and the reason for not carrying out the inspection is recorded in the inspection database; or*
 - (c) *the competent authority considers that the inspection would create a risk to the safety of inspectors, the ship or its crew, or to the port or to the marine environment, and the reason for not carrying out the inspection is recorded in the inspection database.’;*

(b) *the following paragraph is added:*

- ‘4. *If an inspection is not carried out due to extraordinary and unforeseen circumstances it shall not be counted as a missed inspection and the reason for not carrying out the inspection shall be recorded in the inspection database. Those circumstances shall be duly justified and reported to the Commission.’;*

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(7) Article 9 is deleted;

(8) in Article 10, *paragraphs 2 and 3 are replaced by the following:*

‘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 of deficiencies relating to Marpol 73/78, AFS 2001, the BWM Convention, CLC 92, the Bunkers Convention, 2001, the Nairobi *Convention and the* Hong Kong Convention in accordance with Annex I, Part I.3, and Annex II.

3. *The Commission shall adopt implementing acts laying down the methodology for the consideration of generic risk parameters relating in particular to the flag State criteria and company performance criteria adopted under the Paris MoU in 2019 establishing high, medium and low performance lists. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2).’;*

(9) *Article 13 is amended as follows:*

(a) *in paragraph 1, point (c) is replaced by the following:*

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

(b) *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 for an expanded inspection in accordance with Annex I, Part II, 3A and 3B:

(a) *ships with a high risk profile;*

(b) *passenger ships, bulk carriers, oil tankers, gas carriers, noxious liquid substances (NLS) tankers or chemical tankers, older than 12 years of age;*

- (c) *ships with a high risk profile or passenger ships, bulk carriers, oil tankers, gas carriers, NLS tankers or chemical tankers, older than 12 years of age, in cases of overriding or unexpected factors;*
- (d) *ships subject to an inspection following a refusal of access order issued in accordance with Article 16 and Article 21(4).’;*

(b) *paragraph 3 is deleted;*

(c) *paragraph 4 is replaced by the following:*

- ‘4. An expanded inspection shall be carried out, *as far as possible*, by no *fewer* than two port State control inspectors. *If this is not possible, the reasons shall be duly recorded in the inspection database.* The scope of an expanded inspection, including the risk areas to be covered, is set out in Annex VII. The Commission shall adopt implementing acts laying down detailed arrangements 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 that are inspected under this Article.’;

(b) *the following paragraph is inserted*:

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

(12) Article 16 is amended as follows:

(a) paragraphs 1 to 4 are replaced by the following:

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

- (a) flies the flag of a State that appears **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 which 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 to the Paris MoU; or
- (b) flies the flag of a State that appears **on** the high or medium performance list, adopted in accordance with the Paris MoU on the basis of information recorded in the inspection database and published annually by the Commission, and which 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 to the Paris MoU. ■

The first subparagraph of this paragraph shall not apply in 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.

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

If the ship is subject to a second refusal of access order, that refusal of access order shall be lifted only after a period of 12 months.

3. Any subsequent detention in a port or anchorage *of a Member State or of a State signatory to the Paris MoU* shall result in the ship being refused access to any port or anchorage within the Union. Such a third refusal of access order may be lifted after a period of 24 months has passed from the date of issue of that order and only if:
- (a) *the ship flies the flag of a State whose detention rate appears neither on the low performance list nor on the medium performance list ;*
 - (b) 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*;

- (c) the ship is managed by a company with a high performance according to Annex I, Part I.1; and
- (d) the conditions listed in points 3 to **6** of Annex VIII are met.

Any ship not meeting the criteria listed in the first subparagraph, after a period of 24 months has passed from the date of issue of the refusal of access order, shall be permanently refused access to any port or anchorage within the Union.

4. Any subsequent detention after a third refusal of access order, in a port or anchorage within the Union, of a ship flying the flag of a State *that appears on the* medium or low performance list shall result in the ship being permanently refused access to any port or anchorage within the Union.

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

(b) the following *paragraphs are* inserted:

‘4a. **■** A ship flying the flag of a State *that appears on* the high performance list, *that has been refused access three times or more and that* is detained in a port or anchorage *of the Union* at the time of *its* first *inspection in the Union since that third or any subsequent refusal of access*, shall:

(a) *be refused access to 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 and 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 shall be extended by 12 months in cases where a refusal of access measure in accordance with Article 21(4) applies.’;*

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(13) *in Article 17, the first paragraph is replaced by the following:*

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

(14) in Article 19, paragraph 4, the first subparagraph is replaced by the following:

- ‘4. If the inspection reveals that the ship is not equipped with a functioning voyage data recorder, and the use of such recorder is compulsory in accordance with Directive 2002/59/EC of the European Parliament and of the Council*, the competent authority shall ensure that the ship is detained.

* Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC (OJ L 208, 5.8.2002, p. 10).’;

(15) *in Article 20, paragraph 1 is replaced by the following:*

- ‘1. The owner or operator of a ship or the owner or operator’s 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.’;***

(16) **■** 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 of this Article ***and to detained ships as referred to in Article 19(2), which:***

(a) proceed to sea without complying with the conditions determined by the competent authority of any Member State in the port of inspection; or

(b) are permitted to proceed to sea on condition that they comply with the applicable requirements of the Conventions by subsequently calling ***at*** the repair yard indicated pursuant to paragraph 1 of this Article, but fail to do so.

The refusal of access order shall become applicable from the date of its issuing.

The refusal of access order shall be lifted only after a period of 12 months

has passed from the date of issue of that order and when the conditions listed in points 3 to 6 of Annex VIII are met.’;

(b) *paragraphs 5 and 6 are replaced by the following:*

‘5. *In the circumstances referred to in paragraph 4, first subparagraph, point (a), the competent authority of the Member State where the ship was found to be defective shall immediately alert the competent authorities of all the other Member States.*

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

In the circumstances referred to in paragraph 4, first subparagraph, point (b), if the repair yard indicated pursuant to paragraph 1 is not in a Member State and the competent authority of the Member State where the ship was found to be defective becomes aware that the ship has not called at that repair yard, it shall immediately alert the competent authorities of all the other Member States.

Before refusing access to the ship, the Member State may request consultations with the flag State administration of the ship concerned.

6. *By way of derogation from paragraph 4, access by a ship as referred to in that paragraph 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, to reduce or minimise the risk of pollution or to have deficiencies rectified in accordance with paragraph 1, provided that the owner, operator or master of the ship has implemented adequate measures to ensure the safe entry of the ship concerned to that port or anchorage to the satisfaction of the competent authority of that Member State.’;*

(17) in Article 22, paragraph 7 is replaced by the following:

- ‘7. In cooperation with Member States and the State signatories to *the Paris MoU, and based on the expertise and experience gained at Member State level in the Union and under the Paris MoU, the Commission* shall develop a professional training programme *to support the training and the assessment of competences of port State control inspectors by Member States in order to complement the Paris MoU Training policy, with a view to harmonise* port State control practices.

In cooperation with the Member States *and the State signatories to the Paris MoU*, the Commission shall, on a continuous basis, identify and respond to new training needs, providing *input* to amend the curricula, syllabi and content of the training programme for inspectors, especially as regards new *maritime safety challenges related to* environmental, social and *labour issues and new technologies, as well as providing input in relation to the additional obligations arising from the relevant instruments.*’

(18) in Article 23, paragraphs 1 and 2 are replaced by the following:

- ‘1. Member States shall take appropriate measures to ensure that their pilots who are engaged in the berthing or unberthing of ships, or who are engaged on ships bound for a port or in transit within a Member State, immediately inform the competent authority of the port State or the coastal State, as appropriate, whenever they learn in the course of their normal duties that there are apparent anomalies which may prejudice *safety, including* the safe navigation of the ship ■ or the safety of seafarers on board, or which may pose a threat of harm to the marine environment.
2. If port authorities or bodies, in the course of their normal duties, learn that a ship within their port has apparent anomalies which may prejudice *safety, including the safe navigation* of the ship or the *safety of* seafarers on board, or *which may pose a* threat of harm to the marine environment, such authority or body shall immediately inform the competent authority of the port State.’;

(19) in Article 24, paragraphs 2 and 3 are 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 or anchorages, together with an identifier of the port or anchorage concerned, is transferred within three hours *of the arrival and departure **time, respectively,*** to the inspection database through the Union maritime information exchange system ‘SafeSeaNet’ referred to in Article 3, point (s), of Directive 2002/59/EC. Once they have transferred such information to the inspection database through SafeSeaNet, Member States are exempted from the provision of data in accordance with point 1.2 and point 2(a) and (b) of Annex XIV to this Directive.

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

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

(20) the following Article ■ is inserted:

‘Article 24a

Electronic certificates

The Commission shall, in close cooperation with the Member States, adopt implementing acts laying down the functional and technical specifications for a validation tool ■ for electronic *statutory* certificates ■. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2).’; ■

(21) 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 authority with the following types of information in their possession:

- (a) information concerning ships which have failed to notify any information in accordance with the requirements of this Directive, Directive 2002/59/EC and Directive (EU) 2019/883 of the European Parliament and of the Council*, as well as, if appropriate, of Regulation (EC) No 725/2004;

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

* 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).’;

(22) Article 30 is replaced by the following:

‘Article 30

Monitoring of compliance and performance of Member States

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

Each Member State shall develop, implement ■ and maintain a quality management system covering the operational parts of the port State-related activities of its administration *directly involved in inspections. That* quality management system shall be certified in accordance with applicable international quality standards *by ... [90 months from the date of entry into force of this amending Directive].’;*

(23) ■ Article 30a is replaced by the following:

‘Article 30a

Delegated acts

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

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(24) *the following Article is inserted:*

‘Article 31a

Amendments to the Conventions

The amendments to the Conventions shall apply without prejudice to the conformity checking procedure set out in Article 5 of Regulation (EC) No 2099/2002.’;

(25) Article 33 is replaced by the following:

‘Article 33

Implementing acts

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

(26) Article 35 is replaced by the following:

‘Article 35

Implementation review

The Commission shall, by ... [90 months from the date of *entry into force* of this amending Directive] and every 5 years thereafter, submit a report to the European Parliament and the Council on the implementation of, and compliance with, this Directive. On the basis of that report, the Commission shall determine whether it is necessary to submit a legislative proposal for the amendment of this Directive or for further legal acts in this area.

After the IMO has concluded the revision of its carbon intensity indicator (CII), the Commission shall assess the suitability of that CII as an environmental parameter used for the determination of a risk profile of a ship under this Directive. On the basis of that assessment, the Commission shall consider a legislative proposal, as appropriate.’;

- (27) Annex I is replaced by the text set out in Annex I to this Directive;
- (28) Annex II is replaced by the text set out in Annex II to this Directive;
- (29) Annex III is deleted;
- (30) Annex IV is replaced by the text set out in Annex III to this Directive;
- (31) Annex VI is replaced by the text set out in Annex IV to this Directive;
- (32) Annex VIII is replaced by the text set out in Annex V to this Directive;
- (33) *Annex XII is replaced by the text set out in Annex VI to this Directive.*

Article 2

Transposition

1. Member States shall adopt and publish by ... [**30 months** from the date of entry into force of this amending Directive] the laws, regulations and administrative provisions necessary to comply with this Directive. They shall immediately inform the Commission thereof.

When Member States adopt those measures, 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.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

3. By way of derogation from paragraph 1, *Member States which do not have seaports and which can demonstrate that, of the total number of individual vessels calling annually over the three previous years at their river ports, less than 5 % are ships covered by this Directive, may derogate from the obligation to transpose and implement this Directive.*

Article 3

Entry into force

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

Article 4
Addressees

This Directive is addressed to the Member States.

Done at ...,

For the European Parliament
The President

For the Council
The President

ANNEX I

‘ANNEX I

ELEMENTS OF THE UNION PORT STATE INSPECTION SYSTEM

(referred to in Article 5)

The following elements shall be included in the Union Port State Inspection System:

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, *bulk carriers, oil tankers, gas carriers, NLS tankers or chemical tankers* 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 Union 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 Union 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, point (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 Union 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 Union and the Paris MoU region shall be considered as posing a lower risk.
 - (iii) Ships with certificates issued by organisations recognised in accordance with 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 Union 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 Union 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 those 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

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Ships which, during inspection(s) carried out within the period referred to in Annex II have had *more* than the number of deficiencies relating to Marpol 73/78, AFS 2001, the BWM Convention, CLC 92, the Bunkers Convention, 2001, the Nairobi *Convention and the* Hong Kong Convention referred to in Annex II 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 Union or 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 Union or 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 Union or the Paris MoU region during the last 36 months. Low risk ships become eligible for inspection as from the 24th month.*

2. Additional inspections

Ships to which the following overriding or unexpected factors apply are subject to an inspection regardless of the period since their last periodic inspection. However, the need to undertake such 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 within the Union or 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;*

- *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;*
- *have previously been banned (first inspection after the refusal of access order has been lifted); or*
- *have been involved in a severe incident, especially a major fire on board, engine breakdown and fatal accidents.*

2B. 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 within the Union or 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. Those reports 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.*
- *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 3 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, bulk carrier, oil tanker, gas carrier, NLS tanker or chemical tanker, 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, bulk carrier, oil tanker, gas carrier, NLS tanker or chemical tanker, older than 12 years of age, with a standard risk profile not inspected in the last 12 months.*

(c) *In the 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, bulk carrier, oil tanker, gas carrier, NLS tanker or chemical tanker, older than 12 years of age;*
- *a more detailed inspection shall be carried out on any ship other than a passenger ship, bulk carrier, oil tanker, gas carrier, NLS tanker or chemical tanker, older than 12 years of age;*
- *an expanded inspection shall be carried out on any ship in the first inspection after a refusal of access order has been lifted.*

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 5 months;*
- any passenger ship, bulk carrier, oil tanker, gas carrier, NLS tanker or chemical tanker, older than 12 years of age, with a standard risk profile not inspected in the last 10 months; or*
- any passenger ship, bulk carrier, oil tanker, gas carrier, NLS tanker or chemical tanker, 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, bulk carrier, oil tanker, gas carrier, NLS tanker or chemical tanker, 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, bulk carrier, oil tanker, gas carrier, NLS tanker or chemical tanker, older than 12 years of age, with a low risk profile not inspected in the last 24 months.*

(c) *In the 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, bulk carrier, oil tanker, gas carrier, NLS tanker or chemical tanker, older than 12 years of age;*
- *a more detailed inspection shall be carried out on any ship other than a passenger ship, bulk carrier, oil tanker, gas carrier, NLS tanker or chemical tanker, older than 12 years of age.’.*

ANNEX II

‘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	Weighting points	Criteria	Criteria
1	Type of ship				<i>Passenger ship, bulk carrier, oil tanker, gas carrier, NLS tanker or chemical tanker</i>	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/ <i>ILO</i> instruments listed in Article 2 ratified		-	-	Yes		
4a	Recognised organisation	Performance	H	-	-	High		
			M	-	-	-		
			L	Low	1	-		
			VL	Very Low		-		
4b			EU recognised		-	-	Yes	

neither a high risk nor a low risk ship

5	Company	Performance	H	-	-		High
			M	-	-		-
			L	Low	2		-
			VL	Very low			-
Historical parameters							
6	Number of deficiencies recorded in each inspection within previous 36 months		Deficiencies	>6 in one of the inspections	1		≤ 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
Environmental parameters							
8	Number of deficiencies related to Marpol 73/78, AFS 2001, the BWM Convention, CLC 92, the Bunkers Convention, 2001, the Nairobi <i>Convention and the</i> Hong Kong Convention recorded in each inspection within previous 36 months		Deficiencies	>2 in one of the inspections	1		

HRS are ships which meet criteria to a total value of 5 or more weighting points. LRS are ships which meet all the criteria of the Low risk parameters.

SRS are ships which are neither HRS nor LRS⁹.

ANNEX III

‘ANNEX IV

LIST OF CERTIFICATES AND DOCUMENTS

(referred to in Article 13(1))

List of certificates and documents which, to the extent applicable, should be checked as a minimum during the inspection (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 (LL 66, Article 16.1);
11. International Load Line Exemption Certificate (LL 66, 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) (BWM Convention, Article 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 Convention, Article 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 1974, regulation IX/4.2, ISM Code, paragraphs 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, paragraphs 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 1974, regulation VII/16, and INF Code, regulation 1.3);
27. Certificate of insurance or any other financial security in respect of civil liability for oil pollution damage (CLC 92, Article VII.2);
28. Certificate of insurance or any other financial security in respect of civil liability for Bunker oil pollution damage (the Bunkers Convention, 2001, Article 7.2);
29. Certificate of Insurance or other Financial Security in respect of Liability for the Removal of Wrecks (the Nairobi Convention, 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 73/78, Annex I, regulations 20 and 21; resolution MEPC.94(46), as amended by resolutions MEPC.99(48), MEPC.112(50), MEPC.131(53), 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 73/78, Annex I, regulations 17 and 36);
36. Cargo Record Book (Marpol 73/78, Annex II, regulation 15);
37. Garbage Record Book, parts I and II (Marpol 73/78, Annex V, regulation 10.3);

38. Garbage Management Plan (Marpol 73/78, 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 73/78, Annex VI, regulation 13.5.3);
40. Logbook for fuel oil changeover (Marpol 73/78, Annex VI, regulation 14.6);
41. Ozone-depleting Substances Record Book (Marpol 73/78, Annex VI, regulation 12.6);
42. Ballast Water Record Book (BWRB) (BWMC, Article 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 73/78, Annex III, regulation 54);
45. For oil tankers, the record of oil discharge monitoring and control system for the last ballast voyage (Marpol 73/78, 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, Articles 5.7 and 8.1, and MLC 2006, Standard A.2.3.10 and A.2.3.12);
50. Maritime labour certificate;
51. Declaration of maritime labour compliance, parts I and II;
52. Unattended machinery spaces (UMS) evidence (SOLAS 1974, regulation II-I/46.3);
53. Certificates required under Directive 2009/20/EC of the European Parliament and of the Council*;
54. Certificate required under Regulation (EC) No 392/2009 of the European Parliament and of the Council**;

55. 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***;
56. Document of compliance issued under Regulation (EU) 2015/757 of the European Parliament and of the Council****.

* Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of shipowners for maritime claims (OJ L 131, 28.5.2009, p. 128).

** 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 (OJ L 131, 28.5.2009, p. 24).

*** Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC (OJ L 330, 10.12.2013, p. 1).

**** 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 (OJ L 123, 19.5.2015, p. 55).’.

ANNEX IV

‘ANNEX VI

PROCEDURES FOR THE CONTROL OF SHIPS

(referred to in Article 15(1))

All technical instructions and circulars issued under the Paris MoU , in their up-to-date version:

Port State control committee (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

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– 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

- *PSCC56-2023-05* ISM Code
- PSCC54-2021-02 ISPS Code
- PSCC51-2018-12 ECDIS
- PSCC43-2010-32 VDR (Voyage Date Recorders)
- PSCC43-2010-09 Material Safety Data Sheets
- PSCC43-2010-21 GMDSS
- PSCC44-2011-16 Lifeboat on-load release hooks

- PSCC45-2012-10 Damage stability on tankers
- PSCC55-2022-05 LRIT
- PSCC43-2010-28 Thickness measurements ESP/CAS
- PSCC43-2010-29 Thickness measurement
- PSCC51-2018-11 Polar Code
- PSCC55-2022-02 IGF Code

MARPOL Convention

- PSCC46-2013-18 MARPOL Annex I OWS
- PSCC43-2010-39 MARPOL Annex II Stripping
- PSCC47-2014-08 MARPOL Annex III IMDG

- PSCC55-2022-07 MARPOL Annex IV Sewage
- PSCC52-2019-07 MARPOL Annex V Garbage
- PSCC56-**2023-07** MARPOL Annex VI Air Pollution
- PSCC43-2010-38 Crude oil washing
- PSCC44-2011-20 MARPOL Investigation

International Load Line Convention

- PSCC54-2021-06 International Load Line Convention

AFS Convention

- PSCC47-2014-13 Anti-Fouling Systems

Bunkers Convention

- ***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
- 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 UNION

(referred to in Article 16 *and Article 21(4)*)

- (1) If the conditions described in Article 16(1) are met, the competent authority of the port in which the ship is detained for the third time shall inform the master of the ship in writing that a refusal of access order will be issued which will become applicable immediately after the ship has left the port. The refusal of access order shall become applicable immediately after the ship has left the port after the deficiencies leading to the detention have been remedied.
- (2) The competent authority shall send a copy of the refusal of access order to the flag State administration, the recognised organisation concerned, the other Member States, and the other signatories to the Paris MoU, the Commission and the Paris MoU Secretariat. The competent authority shall also update the inspection database with information on the refusal of access without delay.

- (3) In order to have the refusal of access order lifted, the owner or the operator of the ship must address a formal request to the competent authority of the Member State that imposed the refusal of access order. Such 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 complies with the applicable provisions of the Conventions. The flag State administration shall provide evidence to the competent authority that a visit on board has taken place. ***The document may take the form of an official statement, which must be issued by the flag State administration and not by a recognised organisation.***
- (4) The request for the lifting of the refusal of access order must also be accompanied, where appropriate, by a document from the classification society which has the ship in class following an on-board visit by a surveyor from the classification society, showing that the ship complies with the class standards stipulated by that society. The classification society shall provide evidence to the competent authority that an on-board visit has taken place.
- (5) The refusal of access order may be lifted only after the period referred to Article 16 of this Directive has elapsed, and the company must address a formal request to the port State authority of the Member State that imposed the ban and provide the documents requested in paragraphs 3 and 4.

- (6) 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.
- (7) The information system will add an overriding factor to the ship and the ship will be indicated as eligible for an expanded inspection at *its* next call at port/anchorage in the Paris MoU region.
- (8) 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 refusal of the access without delay.
- (9) Information relating to ships that have been refused access to ports within the Union must be made available in the inspection database and published in accordance with Article 26 and 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 other State signatories to the Paris MoU,*
- *provide data on the ship risk profile and on ships due for inspections,*
- *calculate the inspection commitments for each Member State,*
- *produce the high performance, the medium performance and the 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 Union maritime safety databases, including SafeSeaNet, which shall provide data on ships' actual calls at 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.'.*
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