

# Port State control: aligning the Directive to the Maritime Labour Convention requirements

2012/0062(COD) - 23/03/2012 - Legislative proposal

**PURPOSE:** to amend Directive 2009/16/EC on port State control in order to align it to the requirements of the Maritime Labour Convention adopted in 2006.

**PROPOSED ACT:** Directive of the European Parliament and of the Council.

**BACKGROUND:** on 23 February 2006, the International Labour Organisation adopted the **Maritime Labour Convention (MLC)**, 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.

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. It 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. [Council Decision 2007/431/EC](#) has authorised the Member States to ratify the Convention. Member States should ratify it as soon as possible.

Port State control is regulated at EU level by [Directive 2009/16/EC](#), which aims at helping to drastically reduce substandard shipping. In addition, Directive 2009/13/EC implements certain standards of the MLC within Union law.

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

This initiative is part of the EU policy on the maritime professions. It follows from the [Communication entitled “Strategic goals and recommendations for the EU's maritime transport policy until 2018”](#), and the [White Paper on the Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system](#), which highlights the importance of a social agenda for the maritime transport.

The proposal is closely linked to the [proposal for a directive](#) concerning the flag State responsibilities for the enforcement of Directive 2009/13/EC.

**IMPACT ASSESSMENT:** a full 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 consisted of 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. Stakeholders also mentioned the better job quality for all seafarers.

**LEGAL BASIS:** Article 100(2) TFEU.

**CONTENT :** the proposal aims to amend 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;
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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 provide the adequate procedure.

Further to Joint Political Declarations, the Commission is now considering the need for explanatory documents on a case by case basis.

By virtue of the principle 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 proposal does not include the recital on explanatory documents.

**BUDGETARY IMPLICATIONS:** the proposal has no implications for the EU budget.

**DELEGATED ACTS:** the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.