

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

2012/0062(COD) - 07/06/2012

The Council took note of the **state of play** on two proposals for directives laying down the [responsibilities of flag states](#), on the one hand, and **port states**, on the other, as regards the enforcement of the Maritime Labour Convention adopted in 2006 by the International Labour Organisation (ILO).

The Council's preparatory bodies have only recently started discussion of the Commission proposals. The progress report drawn up by the presidency shows that **member states generally welcomed the proposals**, although **concerns were expressed regarding** :

- the absence of impact assessments,
- the necessity to avoid putting additional administrative burdens on public administrations and the shipping industry at this time of economic crisis;
- the need to bring the text of the draft Directives more in line with MLC 2006 by incorporating, in certain instances, its exact wording.

Some delegations took the floor to highlight **certain issues** mentioned in the progress report.

**In respect of the port state proposal**, there was felt to be a need for clarification as regards the **situation of member states that have not ratified the Maritime Labour Convention**, and the introduction of a clause intended to prevent any reduction in the level of workers' social protection as a result of the application of the directive. Another issue of concern is the possibility of subjecting ships under the flag of a state that has not ratified a set of conventions to **further inspections** at any time, in addition to the regular inspections. The Commission has undertaken to further explain how this inspection regime would function and its possible impact. While waiting for this analysis, the Presidency has chosen not to suggest a revision or deletion of this provision, despite the strong opposition from delegations.

Another question of general concern is the relation between the **definitions** of "crew" and "company" in the port State control Directive and the slightly different definitions of "seafarer" and "shipowner" in MLC 2006, respectively. The Presidency has tried to solve the first question through the insertion of an interpretative recital and will work further towards an appropriate solution for the second question.

The Commission proposes to introduce a so-called "**non-regression clause**". However, several delegations find this provision too broad and unclear (in particular the general reference to "Union social legislation"). The Presidency will look further into possible ways of clarifying this provision.

Many delegations have expressed concerns on the wording of those provisions, which they believe are describing the implementing measures in a too detailed manner. The risk is, they argue, that Member States will face more detailed rules (e.g. binding "check-lists") leading to additional administrative burdens. They are asking for wording which is closer to the more general terms of the current port State control Directive.

As for the **provision on delegated acts**, giving the Commission the possibility to update the list of instructions adopted by the Paris Memorandum of Understanding on Port State Control (Article 15 and Annex VI of the current Directive), some delegations have voiced strong concerns. It should be noted that the Commission has a reservation on all changes to the provisions on implementing and delegated acts.

As regards the procedure for **handling complaints** related to MLC 2006, several delegations have asked for wording which is closer to that of MLC 2006. Similar requests have been made as far as provisions regarding rectification and detention is concerned.

Ministers instructed the Council's preparatory bodies to continue examination of the proposals.