

Port State control. Recast

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In accordance with the requirements of Directive 2009/16/EC, the Commission presents a report assessing **the implementation and the impact of the measures taken on port State control (PSC).**

The EU regime on PSC is based on Directive 2009/16/EC¹, which re-casted and reinforced the previous legislation in this field introduced in 1995. The EU regime is based on the pre-existing structure of the Paris Memorandum of Understanding on Port State Control (PMoU). All EU coastal Member States as well as Canada, Russia, Croatia, Iceland and Norway are members of the PMoU.

Directive 2009/16/EC introduced a **new inspection regime (NIR)** for PSC from 1 January 2011. The Directive provides that **all qualifying vessels visiting EU ports are inspected**. Directive 2009/16/EC provides for several new requirements in the field of PSC as well as for common criteria and harmonised procedures for control of ships and aims at the inspection of all ships, **depending on their risk profile**, with ships posing a higher risk being inspected more often.

In addition to the actions taken by the Member States, the Directive has been implemented at EU level through the establishment of a system for reporting of results of PSC inspections (the THETIS database). The THETIS system has been developed by the Commission in close cooperation with EMSA. EMSA operates the THETIS system on behalf of the Commission.

The Commission is currently examining the problems identified during implementation as well as issues highlighted by Member States and whether amendments to Directive 2009/16/EC are required. In particular, the Commission (with EMSA) will look at whether these are statistical anomalies related to the first year of implementation or are inherent to the system and whether they will impact on the same Member States each year.

Assessment: the main observations of the report are as follows:

1. The outcome of the implementing actions: the implementation of the Directive has required work and substantial financial resources from the Member State and at EU level. As a result of this work, **the Directive was largely implemented early in 2011**. The general impression of the Commission is that the Directive is being substantially implemented.

On inspection, the Commission notes that while the overall inspection commitment has been achieved, a number of implementation problems appear to exist in some Member States which need to be addressed. **The number of missed Priority I inspections in some Member States gives rise to particular concern.** The Commission/EMSA will work with the Member States concerned to analyse the reasons for these problems taking into account the adaptation to the NIR. Each Member State must carry out the number of inspections assigned to it, otherwise the principle of the fair share is jeopardised.

2. Impact on maritime safety, efficiency of maritime transport and pollution prevention: the NIR establishes full inspection coverage on ships visiting EU ports and anchorages and a more risk-based system of targeting ships for inspection while real-time ship call information provides improved capabilities for decision making on the ships to be inspected.

On an overall basis, **the inspection commitment for the EU Member States was reached**. In 2011 as compared with previous years the total number of inspections to be carried out decreased. As a result, higher quality inspections were carried out, concentrated on substandard ships. This means that **PSC**

resources are concentrated on inspecting poorer quality vessels and that the inspections carried out are more in-depth.

Directive 2009/16/EC requires Member States to maintain appropriate competent authorities with the **requisite number of qualified inspectors** for the inspection of ships. The report provides the numbers of qualified PSC inspectors in each Member State by port. The figures vary between Member States as not all are full time equivalent posts. The Commission notes that in general, Member States maintain an appropriate number of inspectors (**832 in total**) to carry out the inspections required.

3. Problems raised by Member States: the main points raised were:

- the Directive allows for Priority I inspections to be postponed in exceptional circumstances. **This possibility does not exist for Priority II inspections that are not mandatory.** However if a Member State is "under burdened" within the meaning of the Directive it has (in effect) to treat Priority II inspections as mandatory. Several Member States request that the possibility of postponing inspections be applied also to "mandatory" Priority II inspections.
- The Directive allows an **inspection at an anchorage** to be missed if the visit of the ship is "too short". Member States requested that this possibility be extended to ports;
- Directive 2002/59/EC allows Member States to exempt scheduled services performed between ports located on their territory from the requirement to notify **dangerous or polluting goods** carried on board, Member States suggested that this exemption should be extended to PSC;
- Member States indicated that the requirements of Directives 2002/59/EC and 2009/20/EC on the **insurance of shipowners** for maritime claims are not included within THETIS and that this should be taken into account;
- in the situation where the **priority status of vessels changes** while it is in the port Member States proposed THETIS to warn the State concerned and the State should have a period of grace in order that this missed inspection not be counted against it.
- Annex III of the Directive includes a **list of information to be provided** in the notification of the arrival of a ship. Member States proposed that requirement (f) "date of last expanded inspection in the Paris MOU region" to be deleted as this information is already included in THETIS.

4. Future developments: in the light of the issues identified during implementation and communicated to the Commission by Member States the Commission is currently evaluating whether changes to the Directive are necessary.

In the coming years it is expected that the EU PSC regime will adapt to future requirements that may arise *inter alia* from international conventions as these enter into force and become relevant instruments for the purposes of Directive 2009/16/EC.

The forthcoming entry into force of the Maritime Labour Convention, 2006 (MLC 2006) and the related Directive 2009/13/EC¹⁴ will have to be supported by THETIS. A [Commission proposal](#) to modify Directive 2009/16/EC in this regard is currently being discussed in the European Parliament and the Council.

In addition, with the entry into force of the IMO Ballast Water Management Convention (BWM 2004), it is expected that enforcement will be carried out in the context of Directive 2009/16/EC and THETIS.