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COUNCIL DECISION (EU) 2025/1146

of 27 May 2025

on the position to be adopted on behalf of the European Union within the Port State Control Committee of the Paris Memorandum of Understanding on port State control, during the period 2025-2029

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Paris Memorandum of Understanding on Port State Control (the 'Paris MOU') was signed in Paris on 26 January 1982 and took effect on 1 July 1982. It is appropriate to establish the position to be adopted on the Union's behalf within the Port State Control Committee ('PSCC') of the Paris MOU, as its decisions are capable of decisively influencing the content of Union legislation, namely Directive 2009/16/EC of the European Parliament and of the Council [1] for example by establishing the inspection commitment and the average deficiency and detention rates used in the ship risk profile to select vessels for inspection and by updating the instructions and guidelines for inspectors carrying out inspections.

(2) Directive 2009/16/EC sets out the Union's legal regime on port State control and reformulates and reinforces the previous Union legislation which had been in place in this field since 1995. The Union's legal regime on port State control is based on the Paris MOU. As regards the Union Member States, Directive 2009/16/EC effectively brings the procedures, tools and activities of the Paris MOU within the scope of Union law.

(3) The PSCC of the Paris MOU meets annually. During its meetings it decides on certain issues which have legal effects.

(4) The internal rules of the Paris MOU make it difficult to establish a position to be adopted on the Union's behalf in accordance with Article 218(9) of the Treaty on the Functioning of the European Union in a timely manner for each annual meeting of the PSCC. It is therefore efficient to establish such a position on a multiannual basis, consisting of guiding principles and orientations, together with a framework for its year-to-year specifications. Moreover, most of the topics discussed at the annual meetings of the PSCC concern port State control matters that are covered generally by a single Union legal act, namely Directive 2009/16/EC. In the particular circumstances that apply to the Paris MOU, it is therefore possible to establish a general position to be adopted on the Union's behalf for several meetings of the PSCC.

(5) The Union is not a member of the Paris MOU. It is therefore necessary for the Council to authorise the Member States that are members of Paris MOU to act in accordance with the position to be adopted on the Union's behalf and express their consent to be bound by the decisions taken by the PSCC.

(6) Technical discussions and cooperation with third country members of the Paris MOU within the PSCC are of great importance in ensuring the effectiveness and the good functioning of the Paris MOU.

(7) This Decision should cover the period 2025-2029.

(8) The Union's position should be expressed by the Member States of the Union that are members of the Paris MOU, acting jointly in the interest of the Union,

HAS ADOPTED THIS DECISION:

[1] 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, ELI: http://data.europa.eu/eli/dir/2009/16/oj).

Article 1

The position to be adopted on the Union's behalf within the annual meetings of the Port State Control Committee ('PSCC') of the Paris Memorandum of Understanding on Port State Control (the 'Paris MOU'), during the period 2025-2029, when the PSCC is called upon to take decisions having legal effects, is set out in Annex I to this Decision.

Article 2

The year-to-year specification of the position to be adopted on the Union's behalf within the annual meetings of the PSCC of the Paris MOU, during the period 2025-2029, is set out in Annex II to this Decision.

Article 3

The position referred to in Article 1 shall be expressed by the Member States of the Union that are members of the Paris MOU, acting jointly in the interest of the Union.

Article 4

This Decision shall enter into force on the date of its adoption.

It shall expire on 31 December 2029.

Done at Brussels, 27 May 2025.

For the Council

The President

A. SZŁAPKA

ANNEX I

The position to be adopted on behalf of the European Union in the Paris Memorandum of Understanding on Port State Control

GUIDING PRINCIPLES

In the framework of the Paris Memorandum of Understanding on Port State Control (Paris MOU), the Member States which are bound by the Paris MoU shall, on behalf of the Union:

(a) act in accordance with the objectives pursued by Directive 2009/16/EC, notably to improve maritime safety, pollution prevention, and on-board living and working conditions through a drastic reduction of substandard ships by strictly applying international Conventions and codes;

(b) promote the implementation of an harmonised approach by members of the Paris MOU to the effective enforcement of these international standards in respect of ships sailing in the waters under their jurisdiction and using their ports;

(c) work together within the Paris MOU to achieve a comprehensive inspection scheme and the sharing of the inspection burden in an equitable manner, in particular by the adoption of the annual inspection commitment drawn up in accordance with the agreed methodology set out in Annex 11 to the Paris MOU;

(d) ensure that measures adopted within the Paris MOU are consistent with international law, and in particular with international Conventions and codes relating to maritime safety, pollution prevention, and on-board living and working conditions;

(e) promote the development of common approaches with other bodies carrying out Port State Control;

(f) ensure the coherence with other Union policies, notably in external relations, security, and the environment.

ORIENTATIONS

In order to ensure the smooth year-to-year functioning of the Union's Port State control regime in accordance with Directive 2009/16/EC, the Member States which are bound by the Paris MOU shall endeavour to support following actions by the Paris MOU:

1. The adoption of the following elements of the ship risk profile used to target vessels for inspection:

   (a) the white, grey and black flag list in accordance with the formula developed by the Paris MOU and set out in the Annex to Commission Regulation (EU) No 801/2010 ([1]). According to Article 10(3) of Directive (EU) 2024/3099 amending Directive 2009/16/EC, the Commission shall adopt a Commission Implementing Regulation to replace Commission Regulation (EU) 801/2010 laying down the methodology for the consideration of generic risk parameters. This replacement text will reflect the decisions already taken, in principle, by the Paris MoU in 2019 to change the methodology for calculating the white, grey and black flag list formula and the renaming thereof to 'high, medium and low performance lists'. The Commission is expected to adopt that implementing regulation in 2027;

   (b) the performance list for recognised organisations in accordance with the methodology adopted by the Port State Control Committee ('PSCC') at PSCC 37 in May 2004 (agenda item point 4.5.2);

   (c) the average deficiency and detention ratio for the company performance formula on the basis of the Annex to Commission Regulation (EU) No 802/2010 ([2]).

2. The adoption of changes or updates to the procedures and guidelines of the Paris MOU, having legal effects, that are consistent with the objectives pursued by Directive 2009/16/EC, in particular to improve maritime safety, pollution prevention, and on-board living and working conditions.

([1]) Commission Regulation (EU) No 801/2010 of 13 September 2010 implementing Article 10(3) of Directive 2009/16/EC of the European Parliament and of the Council as regards the flag State criteria (OJ L 241, 14.9.2010, p. 1).

([2]) Commission Regulation (EU) No 802/2010 of 13 September 2010 implementing Article 10(3) and Article 27 of Directive 2009/16/EC of the European Parliament and of the Council as regards company performance (OJ L 241, 14.9.2010, p. 4).

ANNEX II

Year-to-year specification of the position to be adopted on behalf of the Union in the Port State Control Committee of the Paris Memorandum of Understanding on Port State Control

Before each annual Port State Control Committee ('PSCC') meeting of the Paris Memorandum of Understanding on Port State Control, the necessary steps shall be taken so that the position to be taken on behalf of the Union takes account of all relevant information transmitted to the Commission as well as any document to be discussed at the meeting on topics falling within Union competence, in accordance with the guiding principles and orientations set out in Annex I.

Accordingly and based on such information and documents, the Commission shall submit to the Council, for consideration and approval, a preparatory document setting out the particulars of the envisaged position to be adopted on the Union's behalf, in sufficient time before the PSCC meeting.