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Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2009/16/EC on port State control

(Text with EEA relevance)

{SEC(2023) 202 final} - {SWD(2023) 148 final} - {SWD(2023) 149 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

This proposal concerns an amendment of Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control¹.

Directive 2009/16/EC (hereinafter the Directive) regulates port State control inspections at EU level. Port State control (PSC) is a system of inspection of foreign ships in ports of states other than the flag state by PSC officers to verify that the competency of the master, officers and crew on board, the condition of a ship, and its equipment comply with the requirements of international conventions - and in the European Union, with applicable EU law. As such, PSC is important in ensuring maritime safety and in protecting the marine environment.

Due to its history and international nature, maritime transport has developed a specific regulatory structure. At global level, the international legal framework was adopted under the auspices of the International Maritime Organization ² (IMO) and the rules governing working and living conditions on-board ships are promulgated by another UN agency, the International Labour Organization (ILO).

The primary responsibility for monitoring the compliance of ships with IMO and ILO standards lies with the State where the ship is registered and whose nationality the ship holds – the flag State. However, flag State rules only apply to vessels that fly that flag. There continue to be flag States willing to allow substandard vessels to operate under their flags or unable to adequately enforce the international rules. Therefore, many of the IMO's most important technical conventions contain provisions for ships to be inspected when the vessels visit foreign ports to ensure that they meet the international requirements.

To improve effectiveness, port States carrying out PSC inspections began to coordinate their work systematically at regional level. The Paris Memorandum of Understanding on port State control³ (hereinafter the 'Paris MOU') drawn up in 1982 is the first of nine intergovernmental structures across the world. All 24 European Economic Area (EEA) Member States with seaports, as well as Canada, the Russian Federation⁴ and the United Kingdom, are signatories to the Paris MoU. The EU is not a member.

The PSC Directive incorporates the procedures and tools of the Paris MoU as agreed in 2009. The Paris MoU and the PSC Directive are based on the concepts of shared burden and targeted, harmonised inspections. The Commission, assisted by the European Maritime Safety Agency (EMSA), provides all EEA and Paris MOU Member States with the technical support needed to decide which vessels to inspect, and to report and share the results of PSC inspections via the THETIS database (hosted by EMSA) and training on how to carry out inspections. EEA Member States are also provided with

¹ OJ L 131, 28.5.2009, p. 57

² International rules include the International Convention for the Safety of Life at Sea (SOLAS 74), the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), Standards of Training, Certification and Watchkeeping (STCW), the International Convention on Load Lines, 1966 and the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREG 72).

³ www.parismou.org

⁴ Following the invasion of Ukraine, Russian Federation membership of the Paris MoU was suspended in May 2022.

information on the vessels scheduled to call at their ports via the Union maritime information exchange system 'SafeSeaNet'⁵ to allow them to plan their inspections.

The main objectives of the PSC Directive are to:

- (i) continuously improve maritime safety and security;
- (ii) continuously improve of pollution prevention and of environmental impact;
- (iii) continuously improve on-board living and working conditions;
- (iv) the avoidance of distortions of competition.

To this end, the key elements of the EU PSC regime are:

- (i) to take a harmonised approach to inspections and detentions;
- (ii) for each Member State to commit to an annual inspection commitment
- (iii) to target ships for inspection based on a ship risk profile (SRP) for each individual ship and
- (iv) record keeping and information sharing (inspection database).

Since it entered into force, the Directive has been amended to enforce the Maritime Labour Convention, 2006 (MLC, 2006)⁶. Furthermore, in the EU, particular specific rules apply to ferries in regular service,⁷ insurance requirements,⁸ the control of ship generated waste and cargo residues⁹, the safe and environmentally sound recycling of ships¹⁰ and the monitoring, reporting and verification (MRV) of greenhouse gas (GHG) emissions¹¹ where PSC inspections check enforcement of these rules. For other EU legal acts, such as control of the sulphur content of marine fuels, PSC is also used to check in the vast majority of the EU Member States by PSC¹². Port State control in the EU is largely based on the rules and procedures of the Paris MOU but these EU provisions do not apply to the non-EEA signatories to the Paris MOU.

The Directive was the subject of an ex-post evaluation and maritime fitness check (alongside other pieces of EU maritime safety legislation) in 2018. Since the Directive entered into application it has also been continuously monitored by the Commission which identified the following problematic

⁵ This is a system hosted and developed by EMSA which enables Member States to provide and receive information on ships and their hazardous cargoes. It provides, among others, the identification, position and status of a ship; times of departure and arrival; incidents reports, details on hazardous cargoes.

⁶ Directive 2013/38/EU of 12 August 2013 amending Directive 2009/16/EC on port State control (OJ L 218, 14.8.2013, p. 1)

⁷ Directive (EU) 2017/2110 of 15 November 2017 on a system of inspections for the safe operation of ro-ro passenger ships and high-speed passenger craft in regular service and amending Directive 2009/16/EC and repealing Council Directive 1999/35/EC (OJ L 315, 30.11.2017)

⁸ 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)

⁹ 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, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (OJ L 151, 7.6.2019, p. 11)

¹⁰ 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)

¹¹ 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)

¹² Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels (codification) (OJ L 132, 21.5.2016, p.58)

issues:

- 1) current EU requirements are not aligned with new international mandatory rules and new procedures agreed at regional level (International Maritime Organization – IMO, and Paris MOU);
- 2) current EU requirements do not apply to fishing vessels – certain international conventions applying to fishing vessels of over 24 metres in length, which could be enforced by PSC, are not inspected or are not inspected in a coordinated manner;
- 3) there is an uneven distribution of PSC inspections across EU ports;
- 4) the current design of the ship risk profile and targeting mechanism used to select ships for inspection, are not up to date;
- 5) the system is too reliant on a cumbersome paper-based certificate system, and
- 6) there are inadequate and inflexible procedures and inadequate PSC resources (skills, training).

The problems identified apply across the EU and have the same underlying causes. In the absence of EU action, Member States risk working in an uncoordinated and non-harmonised way. There is clear EU value in improving the Directive to address the problems identified.

In the light of this, the Commission has prepared a proposal to amend Directive 2009/16/EC. The specific objectives of the proposal are to:

- Update and align EU legislation with international rules and procedures, set by the IMO/ILO or the Paris MOU;
- Protect fishing vessels, their crew and the environment. Larger fishing vessels of more than 24 metres in length are not included in the scope of port State control. A voluntary system of control for this type of vessel – should increase the level of compliance with international standards of safety and environmental protection applicable to these vessels;
- Ensure a higher uptake of digital solutions. In particular, it encourages the uptake and use of electronic statutory certificates by linking their use with the ship risk profile used to target and select ships for inspection.
- Ensure an efficient and harmonised approach to carrying out PSC inspections. This includes better targeting of vessels for inspection by restructuring out-dated aspects of the ship risk profile and adding new components to it.

For the sake of clarity and consistency, this proposal also updates a number of definitions and references to related EU legislation and IMO regulations.

- **Consistency with existing policy provisions in the policy area**

The proposal is fully consistent with Directive 2009/18/EC¹³ on maritime accident investigation and Directive 2009/21/EC¹⁴ on flag State requirements. All three of these EU maritime safety directives are based on the rules and standards set by the IMO at international level, and together they form the basis for the EU system of ensuring the safety of maritime operations in EU waters.

¹³ OJ L 131, 28.5.2009, p. 114

¹⁴ OJ L 131, 28.5.2009, p.132

- **Consistency with other EU policies**

The proposal comes under the Commission's REFIT programme and delivers on its better regulation agenda by ensuring that existing legislation is simple and clear, does not create unnecessary burden and keeps pace with evolving political, societal and technological developments. This proposal and related proposals to revise the other maritime safety directives are also part of and have significant interaction with the EU's body of law governing maritime safety which includes the EU vessel traffic monitoring and information system (SafeSeaNet)¹⁵, the EMSA founding Regulation¹⁶, the fishing vessel safety Directive¹⁷, the EU legislation relating to recognised organisations¹⁸, the Marine Strategy Framework Directive¹⁹ and other EU environmental legislation²⁰.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis of the amending directive is Article 100(2) TFEU, providing for measures to improve transport safety and specific provisions for sea transport.

- **Subsidiarity (for non-exclusive competence)**

As the international instruments in the field of PSC in the maritime transport sector are an exclusive EU competence under Article 3(2) TFEU, the subsidiarity principle does not apply, either to those instruments or to the EU rules implementing those agreements.

- **Proportionality**

The Commission prepared the proposal to reflect the latest developments at international level and the results of the 2018 ex-post evaluation and REFIT procedures. The Commission also carried out an impact assessment to identify, assess and evaluate alternative measures to achieve the same objectives.

The objective of the proposed amendment is to improve maritime safety by having an up-to-date, coherent and harmonised system of PSC inspections across the EU to target underperforming shipping and thereby to improve the safety and environmental performance of vessels operating in EU waters. It considers it appropriate to extend the scope of PSC to larger fishing vessels is considered proportionate as it will be voluntary for those Member States who wish carry out this type of inspection. This measure should improve the safety, environmental and working and living conditions in the fishing sector. The move towards digitalisation and the use of e-certificates will create costs but these will be limited and will be offset by the expected benefits in terms of greater safety and efficiency impact they are expected to yield. Given the international nature of the sector there is no alternative measure to achieve these results in a more effective and efficient way.

¹⁵ Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system (OJ L 208, 5.8.2002, p. 10)

¹⁶ OJ L 208, 5.8.2002, p. 1

¹⁷ OJ L 34, 9.2.1998, p. 1

¹⁸ Regulation (EC) No 391/2009 on common rules and standards for ship inspection and survey organisations (OJ L 131, 28.5.2009, p.11) and Directive 2009/15/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ L131, 28.5.2009, p.47)

¹⁹ OJ L 164, 25.6.2008, p. 19

²⁰ Such as Directive 92/43/EEC (the "Habitats Directive"), Directive 2009/147/EC (the 'EU Birds Directive'), Directive (EU) 2019/904 (Single use Plastics Directive)

- **Choice of the instrument**

As the proposal only requires making several amendments to Directive 2009/16/EC, an amending Directive is the most appropriate legal instrument.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The 2018 REFIT ex-post evaluation and maritime transport fitness check concluded that, although the Directive constrains the flexibility of the Paris MOU to some extent, it adds value, by combining a port State control framework with a legal enforcement mechanism, to ensure correct and consistent implementation in Member States. This has resulted in pressure to perform and continuously improve, and thus to a better resource allocation at Member State level for port State control. The evaluation concluded that the Directive has contributed to the intended objectives to improve maritime safety, security, pollution prevention and to ensuring better working and living conditions on-board.

EMSA has supported the port State control regime in important ways. Over two-thirds of EU/EEA Member States carrying out inspections exclusively use THETIS to select which vessels to inspect. The role of EMSA in managing and updating THETIS, and the training provided by EMSA of inspectors to harmonise inspections throughout the Paris MOU region, was also found to be very important.

In addition, the Commission and EMSA have continuously monitored implementation of the Directive. Since PSC inspection reports must be uploaded to THETIS as soon as an inspection is completed, EMSA has almost a real-time and detailed overview of all inspections carried out. EMSA also provides a help desk and technical assistance to Member States who require assistance, and they carry out visits to the EEA Member States to verify compliance.

However, the maritime transport fitness check and the horizontal analysis by EMSA identified several areas that could be improved in the PSC regime.

- **Stakeholder consultations**

The main consultation activities included:

- Four exploratory interviews with EU level representatives of key stakeholders, particularly to feed into and refine the overall problem definition and possible policy options.
- A targeted stakeholder survey organised by the consultant in charge of the external support study to the impact assessment, running from 7 September 2021 to 6 October 2021. The survey was sent to key stakeholders with specific information requests, in particular to underpin the assessment of impacts of possible policy measures.
- The consultant in charge of the external support study to the impact assessment, held 22 targeted interviews running from 13 July 2021 to 16 September 2021, with key stakeholders to fill specific information requests, particularly to support the assessment of impacts of possible policy measures.
- Additional consultation activities organised by DG MOVE and the consultant in charge of the external support study to the impact assessment in order to consult the Member States and key stakeholders to elicit their views on the different policy measures and validate the emerging and final results of the support study to the Impact Assessment in terms of the quantification of the impacts. These activities took place during meetings of the EU Sectoral Social Dialogue Committee on maritime transport (16 April 2021, 23 September 2021 and 16 December 2021),

the EU Sectoral Social Dialogue Committee on Sea Fisheries (29 January 2021, 8 March 2021 and 16 November 2021), the EU Sector Social Dialogue Committee on ports (19 November 2021), an informal meeting of the EU/EEA Maritime Transport Directors (30 November 2021), virtual and in person meetings of the Port State Control Committee of the Paris MOU (May 2021 and May 2022) meetings of the of the EU Committee on Safe Seas and the Prevention of Pollution from Ships (17 May 2021, 11 November 2021 and 31 May 2022).

The information collected from stakeholders was key to enabling the Commission to refine the design of the policy options as well as to assess their economic, social and environmental impacts. It enabled the Commission to compare the options and ascertain which is likely to strike the optimal cost/benefit ratio for society and to help achieve a more effective and efficient port State control mechanism that better targets substandard shipping. Findings from those processes complemented the desk research carried out as part of the work on the external support study.

- **Collection and use of expertise**

This review builds primarily on the data collected during the 2018 ex-post evaluation and maritime transport fitness check process referred to previously.

The preparation of this proposal also required input from experts from the Commission and EMSA on the specific formulation of technical definitions and clear legal drafting.

- **Impact assessment**

The impact assessment examined three policy options to revise the Directive, based on the following guiding principles:

- (1) the need to update and align the Directive with international instruments;
- (2) the potential to tackle the specific problem of the fishing vessel fleet by providing for a specific PSC regime for such vessels;
- (3) greater digitalisation of PSC methods to allow for better prepared and more focussed PSC inspections – the directive must facilitate and provide incentives for the use of electronic statutory certificates;
- (4) an efficient and harmonised approach to PSC inspections, drawing from past experience in implementing the Directive and better targeting of vessels for inspection.

Option A proposes a number of changes to the Directive to better deliver on the goal of improving maritime safety and preventing pollution. This option is mainly focussed on keeping the Directive aligned with international legal instruments. Most of the other changes proposed are non-regulatory measures in the form of recommendations, guidelines and workshops organised by Commission and/or EMSA.

Option B strikes a balance between giving flexibility for PSC administrations is balanced with harmonisation. A voluntary PSC system for those Member States that wish to carry out inspections of fishing vessels of above 24 metres is proposed in parallel to (but outside) the current Directive. It also includes the provision of guidelines, EMSA training and an EMSA inspection database to target ships and report on inspections. It encourages the use of electronic certificates by linking them with the ship risk profile.

Option C entails the highest increase in administrative burden for PSC administrations but it will also ensure the highest level of harmonisation of inspections. It would fully incorporate PSC for fishing vessels of above 24 metres into the Directive with an impact on the owners/operators of these vessels as well as on Member State PSC administrations. It would make the use of electronic certificates mandatory in the Directive and provide for the phasing-out of paper certificates by 2035.

The impact assessment was submitted to the Regulatory Scrutiny Board for approval in July 2022. The Board issued a positive opinion with reservations. The staff working document accompanying this legislative proposal addresses the comments made by the Board.

- Application of the ‘one in, one out’ approach

No additional costs (administrative or adjustment costs) have been identified for businesses or citizens.

- **Regulatory fitness and simplification (REFIT)**

The initiative is relevant to the Commission’s REFIT programme as it seeks to align and simplify maritime safety legislation, improve the safety profile (in particular of the larger fishing vessel fleet segment) and of assisting Member State authorities in meeting their inspection and reporting obligations.

In addition, the preferred policy option includes aspects of simplification, as it will clarify the situations and circumstances under which PSC inspections can be missed either for normal operational reasons or in force majeure situations. It is expected to increase the harmonization and standardisation across the EU via the provision by EMSA of assistance to national PSC authorities with training on how to carry out inspections of foreign fishing vessels, and the provision of a dedicated inspection database to target and select vessels for inspection and to record and share the results of the inspections

- **Fundamental rights**

The proposal has no consequences for the protection of fundamental rights.

4. BUDGETARY IMPLICATIONS

The proposal gives rise to net present costs for the Union Budget of EUR 6.479 million over the period 2025-2050. The budget impact of the proposal is described in more detail in the Legislative Financial Statement annexed to this proposal for information. The budget impact of the proposal is already included in the Commission’s Proposal for a Regulation of the European Parliament and of the Council on the European Maritime Safety Agency and repealing Regulation (EC) No 1406/2002.

The budget impact beyond the current MFF is an indicative overview, without prejudice to the future MFF Agreement.

5. OTHER ELEMENTS

- **Monitoring, evaluation and reporting arrangements**

Adequate monitoring and reporting arrangements have been identified. EMSA will play an important role in this process, as the Agency is in charge of the development and operation of electronic data systems for maritime transport, in particular the THETIS targeting and inspection reporting database.

The implementation can be monitored by means of the Commission and/or EMSA monitoring of the THETIS database to verify that ships are being correctly targeted for inspection and that inspections are

being correctly carried out and that the inspection reports are uploaded to the database. EMSA also carries out cycles of visits to Member States to verify operations on the ground as part of EMSA's support role to the Commission²¹. Member States will have to have a quality management system (QMS) to certify its organisation, policies, processes, resources and documentation are appropriate to achieve its objectives. This will have to be certified and subsequently subject to periodic audit. Member States will be required to share with Commission/EMSA the results of the audits carried out by the accredited body such that the national port State control authorities can retain their QMS certification.

Given that the full cycle of envisaged EMSA implementation visits is scheduled to last 5 years²², it is proposed that the evaluation cycle of the Directive is set at seven-year intervals.

- **Explanatory documents (for directives)**

Explanatory documents are not required as the proposal aims to simplify and clarify the existing regime.

- **Detailed explanation of the specific provisions of the proposal**

Recital 11 encourages all EU Member States which are eligible (Spain, Greece, France, Croatia, Italy and Slovenia) to become members of the Mediterranean Memorandum of Understanding on port State control to improve the quality and quantity of port State control inspections carried out in the Mediterranean basin.

Article 1 of the draft amending Directive forms its main part and contains amendments to numerous provisions of Directive 2009/16/EC.

Purpose, definition and scope

In point 1, Article 2 is amended and the scope of the Directive is hereby partially extended to bring a number of international conventions within the scope of port State control inspections. These are the International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM Convention) and the International Convention on the Removal of Wrecks (Nairobi) both of which are in force and have been adopted as relevant instruments by the Paris MOU.

In point 2, the scope is amended so that fishing vessels of above 24 metres in length can be inspected under PSC by those Member States who wish to carry out these inspections.

Inspection commitment

Point 3 makes changes to the inspection commitment (the so-called "fair share") and the way that this is calculated and complied with by Member States. Currently, the inspection commitment is based on a three-year rolling average of all inspections carried out in the Paris MOU region. This means that, when Member States inspect significantly more vessels than their inspection commitment provides for, this will, over time, cumulatively increase the inspection commitment for all Member States. This increase has been calculated by EMSA at 1-2% per year. This measure is designed to address this additional and unnecessary burden on the Member States.

²¹ EMSA carries out such visits under Article 3 of Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency as part of its core tasks; therefore, no additional costs are expected to arise.

²² As provided for in the EMSA Methodology for visits to Member States, <http://emsa.europa.eu/implementation-tasks/visits-and-inspections/items.html?cid=89&id=3065>

Point 4 and 5 aligns the Directive with changes in the Paris MOU as regards the inspection commitment and to allow more flexibility for missed inspections (either for operational or force majeure reasons).

Point 6 also amends the Directive to allow more flexibility for missed inspections and to comply with the inspection commitment.

Force majeure situations

Point 7 addresses the issue of lack of flexibility of the PSC regime in cases of crisis or unexpected events, such as the COVID-19 pandemic. In order to make the regime more resilient, a new Article 8a is introduced. The measure allows more flexibility to Member States, as it allows them to miss inspections in cases of force majeure, provided that the missed inspection is recorded and the reason for missing the inspection is documented.

Pre-arrival notification

Points 8 and 10 align the Directive to the Paris MOU changes abolishing the 72-hour reporting obligation for vessels eligible for an expanded inspection set out in Article 9 and Annex III– Article 9 and Annex III are deleted. Points 16 and 23 reflect the deletion of Article 9 and Annex III.

Environmental parameters

Point 9 sets out the environmental parameters which will be taken into account to establish the ship risk profile used to target ships for inspection

Expanded inspections

Point 10 provides that, because of their complexity, expanded inspections have to be carried out by more than one port State control officer.

Refusal of access

Points 12 and 13 amends the Directive to align it to the changes adopted by the Paris MOU relating to the refusal of access (banning) procedure and the possibility to ban vessels which are on the grey or white lists of the Paris MOU (flag-blind banning) as well as provision related to jumped detention or when the detained vessel does not proceed to an agreed repair yard.

EMSA training

Point 14 sets out the possibilities for EMSA to provide training to the EU Member States to better fulfil their responsibilities under the Directive, given the widened scope of PSC and improvements in the scope and type of training.

On this basis, EMSA (together with the Member States and the Paris MOU) will develop a new professional development and training programme for inspectors, to be made up of a (i) syllabus of competence and a (ii) professional development scheme. Once these aspects are in place, the Agency should identify and provide new training needs to amend the curricula, syllabi and content of the professional development and training program for inspectors, especially as regards new technologies and in relation to the additional obligations arising from new IMO conventions.

Database, information sharing and electronic certificates

Point 15 amends the Directive to clarify and fix the time frame within which the ship arrival and departure notifications have to be communicated to SafeSeaNet. Article 24(2) of the Directive requires Member States to ensure that this data is "transferred within a reasonable time to the inspection database". The Directive will be amended to include what a reasonable time means so that the reporting of actual times of arrival and departure is reported within three hours. It also provides that all PSC inspection reports are validated by a person (either another port State control inspector or a supervisor) other than the inspector who carried out the inspection before the inspection report is transferred to the database.

Point 16 amends the Directive to add a new Article providing for and encouraging the use of electronic certificates. These would rely on a common template, use a common validation tool and repository at EU level, which would link the use of electronic certificates with the ship risk profile. This measure will encourage the issuance of electronic certificates by flag States or by Recognised Organisations (ROs) acting on their behalf (while permitting their continued use in PSC) by rewarding these e-certificates with points (adding a parameter to the ship risk profile) towards being considered as a low-risk ships and so being less targeted by PSC inspections.

Quality management system

Point 18 amends the Directive to require Member States to develop and apply a quality management system (QMS) for the PSC activities of their maritime administration. This should allow the administrations to keep pace with the increasing complexity and requirements of PSC inspections, to allow for better quality control and indicate problems such as resource allocation issues. It will apply to all port States that do not already have an externally certified QMS for their PSC operations.

Delegated acts

Point 19 provides that the Commission is empowered to adopt delegated acts to update the list of Conventions set out in Article 2(1) if such Conventions have been adopted as a relevant instrument by the Paris MoU and to amend Annex VI in order to add and/or update the list of procedures and guidelines relating to port State control adopted by the Paris MoU.

Amending powers

Point 20 provides that any updates to the IMO relevant instruments listed in Article 2(1) are subject to the standard non-regression clause. This means that if there are changes at the international level, the standards in the EU instrument are at least maintained at the current level.

Implementing rules

Point 21 sets out that when adopting implementing acts the Commission shall have specific regard to the role and expertise of the Paris MOU and that such acts take into account the expertise and experience gained with the inspection system in the Union.

Implementation review

Point 22 provides that the Commission will produce a review of the implementation of the amended Directive 10 years after adoption. This takes account of the time necessary for transposition and the fact that an EMSA review cycle of visits to Member States typically takes no less than 5 years.

Ship Risk Profile (SRP) – Certificates and documents

Points 23 and 24 amend Annexes I and II relating to the ship risk profile (SRP). The SRP is amended to take account of changes already agreed in principle by the Paris MOU. These include (i) the weighting points applied to certain vessel types and (ii) the IMO Audit Scheme, which is no longer a voluntary system, but is replaced by a weighting factor to take account of whether the Flag State has ratified the international conventions.

The SRP is also amended for cargo and passenger vessels of over 5000 gross tonnage (which are regarded as the most polluting), for which the SRP will take account of the vessel's IMO Carbon Intensity Indicator. For all ships eligible for port State control, it adjusts the weighting factor to attach more importance to environmental related deficiencies (MARPOL, Ballast Water Management Convention and International Convention on the Control of Harmful Anti-fouling Systems on Ships) recorded against that ship in previous PSC inspections carried out in the Paris MOU region. The recorded deficiencies and detentions are linked only to the international conventions (the so-called relevant instruments) so that the revised SRP will apply across the Paris MOU region and not just in the EU Member States. A parameter will also be added to encourage the flag states of vessels eligible for PSC to use electronic certificates.

Certificates

Point 26 updates the lists of statutory certificates and other documents in Annex IV to be checked during inspections in line with the IMO requirements as previously agreed in the Paris MOU.

Inspections procedures and guidelines

To allow for an up to date and harmonised system of port State control across the Union, point 26 updates Annex VI relating to the Paris MOU inspection guidelines and instructions to be followed during inspections, in their up-to-date version.

Refusal of access

Point 28 updates Annex VIII concerning the refusal of access (banning) procedures referred to in Article 16 to align these with the changes already agreed in the Paris MOU.

Proposal for a

DIRECTIVE 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,

Having regard to the opinion of the European Economic and Social Committee²³,

Having regard to the opinion of the Committee of the Regions²⁴,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Directive 2009/16/EC of the European Parliament and of the Council²⁵ sets out rules on the system for port State control inspections, whereby eligible ships calling in Union ports are inspected to verify if the competency 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 and on the protection of marine environment.
- (2) Directive 2009/16/EC is based on the pre-existing voluntary intergovernmental structure of the Paris Memorandum of Understanding on port State control (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 the 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) and technological developments. Those changes as well as the experience gained from implementation of Directive 2009/16/EC should be taken into account.
- (4) A number of international conventions have entered into force and been ratified by the Member States since 2011. These are the International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM Convention) and the Nairobi International Convention on the Removal of Wrecks (Nairobi Convention). Therefore, they should be included in the list of the Conventions covered by Directive 2009/16/EC, to allow them to be enforced as a part the port State control system.

²³ OJ C , , p. .

²⁴ OJ C , , p. .

²⁵ OJ L 131, 28.5.2009, p. 57

- (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 a need for amending the whole Directive. Therefore once an international Convention has entered into force – meaning that it has reached an agreed level of ratification - and following its adoption by the Members of the Paris MoU as a relevant instrument the list of Conventions in the Directive should be updated by the Commission.
- (6) Due to their small size, most fishing vessels in the EU operate in territorial waters, and are not susceptible to being inspected in foreign ports. This means that in general, only larger fishing vessels above 24 meters in length (which are also the fishing vessels which are most subject to international conventions) are likely to engage in international waters and call at ports different than those in the country where they are registered and therefore be subject to PSC. As the majority of the international conventions applicable to larger fishing vessels are different to those which are currently enforced through port State control and to avoid undesirable spill over effects onto the current port state control system a parallel system of port state control for fishing vessels is being proposed.
- (7) However, due to the patterns of fishing not all EU Member States are visited by these larger fishing vessels. Therefore, a voluntary system for those EU Member States that wish to carry out these inspections and which is separate from the current port state control regime is being proposed to allow for flexibility and the way that standards are developed in port State control. This system of port State control of fishing vessel of over 24 metres in length can therefore be developed organically by Member States, the Paris MoU and the Commission.
- (8) The fair share mechanism provides a distribution of the inspection burden among the Member States of the Paris MOU. Each Member State is allocated a certain number of inspections – its inspection commitment or 'fair share' - to be carried out each year. Eligibility for inspection is primarily determined by the length of time which has passed since the last inspection. Priority II ships may be inspected while Priority I vessels shall be inspected.
- (9) Member States are permitted to miss a certain number of “Priority” inspections and still comply with their inspection commitment. However, for some Member States the number of ship calls that actually occur during a given year can either exceed or be less than the allocated inspection commitment. An alternative method of compliance to the fair share obligation for these (over-burdened or under-burdened) Member States was found to be inflexible, therefore it is necessary to align the provisions concerned with the revised Paris MOU provisions.
- (10) Member States are also allowed to postpone inspections of ships under certain circumstances, provided that the vessel is inspected in the next port of call or within 15 days and this possibility is modified so that it can be availed of by all Member States. Certain categories of vessels 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 to a port 72 hours in advance of their arrival. However after a number of years, it was concluded that this obligation was too burdensome on operators and added no value as the national authorities already have the information required more easily available in the THETIS database. On this basis the Paris MOU abolished this pre-arrival notification obligation therefore Directive 2009/16/EC should be aligned accordingly.
- (11) Over the last decade and despite increases in the number of vessels calling to EU ports including the short sea shipping transport of goods between main ports in the EU Member States and ports situated in geographical Europe or in non-European countries on the Mediterranean and the Black Sea, the safety profile of vessels calling to EU ports has improved

considerably. Port State control inspections are being increasingly used to enforce environmental legislation such as in relation to sulphur emissions or the safe and environmental scrapping of ships. The “Fit for 55 package” aims to reduce the EU’s total green-house gas emissions by 55% by 2030, paving the way to climate neutrality by 2050 and maritime transport is expected to contribute to this effort. However, the ship risk profile devised prior to 2009 had different priorities and is not fully adapted to focus the inspection effort on the least environmentally performing vessels.

- (12) On this basis, the ship risk profile should be updated to reflect environmental issues by attaching more importance to the environmental performance, including the operational carbon intensity of the ships being inspected as well as to environmental related deficiencies and detentions.
- (13) 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 expected to increase. Therefore the effectiveness of port State control should be enhanced by making more use of electronic certificates to allow for more ship focussed better prepared inspections. The uptake and use of these electronic certificates should be incentivised by their inclusion in the ship risk profile.
- (14) Port State control has been increasing in complexity as new inspection requirements are added, either by EU law or via the International Maritime Organization. There is therefore a need to ensure the upskilling and reskilling of the port State control officers and continuously develop their training.
- (15) Union Flag State administrations in line with Directive 2009/21/EC of the European Parliament and of the Council²⁶ are required 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 activities should allow Member States to certify that their organisation, its policies, processes, resources and documentation are appropriate to achieve its objectives as well as identify system problems such as resource or personnel allocation issues before these become problematic.
- (16) In order to allow for an up-to date application of the provisions of this Directive to allow Member States to fulfil their obligations under international law in compliance with the 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 Conventions within the scope of Directive 2009/16/EC and amending the list of procedures and guidelines relating to port State control adopted by 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-Making²⁷. 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.

²⁶ 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).

²⁷ OJ L 123, 12.5.2016, p. 1.

- (17) In order to ensure uniform conditions for the implementation of the provisions of Directive 2009/16/EC concerning the list of Conventions under its scope, the voluntary port state control regime for fishing vessels above 24 meters length overall, the conditions for the application of Annex VII on expanded inspection, 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 Council²⁸.
- (18) In order to improve the quality of port state control inspections in marine areas close to the EU all eligible Member States are encouraged to join the Mediterranean MoU on port State control (Med MOU).
- (19) 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 Directive 2009/16/EC no later than [ten years after its date of application referred to in Article XX)] and report to the European Parliament and the Council thereon. Member States should cooperate with the Commission to gather all information necessary for this evaluation.
- (20) 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.
- (21) 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 is amended as follows:
- (a) in point 1 the following points (i) and (m) are added:
 - ‘(l) International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM Convention);
 - (m) Nairobi International Convention on the Removal of Wrecks (Nairobi Convention).’
 - (b) point 3 is deleted.
- (2) Article 3 is amended as follows:

²⁸ 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).

- (a) paragraph 4 is replaced by the following:
 - ‘4. Fishing vessels below 24 meters overall, 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.’
- (b) the following paragraph 4a is added:
 - ‘4a. Member States may carry out port state control inspections of fishing vessels of above 24 metres length overall. The Commission shall adopt implementing acts establishing the modalities of such a specific port state control regime for fishing vessels above 24 meters length overall. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2).’
- (3) in Article 5, the following paragraph 2a is inserted:
 - ‘2a. Inspections of Priority II ships carried out by Member States when its annual inspection commitment has been exceeded by more than 150% shall not be taken into account in the calculation of the annual inspection commitment of Member States parties to the Paris MOU.’
- (4) Article 6 is replaced by the following:

‘Article 6

Modalities of compliance with the inspection commitment

A Member State which fails to carry out the inspections required in Article 5(2)(a), complies with its commitment in accordance with that provision 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.

Notwithstanding the percentages of missed inspections referred to in the first subparagraph, Member States shall prioritise inspection of ships, which, according to the information provided by the inspection database, call at ports within the Union infrequently.

Notwithstanding the percentages of missed inspections referred to in the first subparagraph, for Priority I ships calling at anchorages, Member States shall prioritise 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, paragraph 2 is replaced by the following:
 - ‘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 be regarded as complying with its annual inspection commitment, if that Member State carries out inspections of two thirds of Priority I and II ships of the total number of Priority I and II ships calling at its ports and anchorages.’,
- (6) in Article 8, paragraphs 1 and 2 are replaced by the following:
 - 1. A Member State may decide to postpone the inspection of a Priority I or Priority II ship in the following circumstances:
 - (a) if the inspection may be carried out at the next call of the ship in the same Member State, provided that the ship does not call at any other port in the Union or the Paris MOU region in between and the postponement is not more than 15 days; or

- (b) if the inspection may be carried out in another port of call within the Community or the Paris MOU region within 15 days, provided the State in which such port of call is located has agreed in advance to perform the inspection.
2. Where an inspection is not performed 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 missing the inspection is recorded in the inspection database and the following exceptional circumstances occur:
- (a) in the judgement of the competent authority the conduct of the inspection would create a risk to the safety of inspectors, the ship, its crew or to the port, or to the marine environment; or
- (b) the ship call takes place only during night time (as provided for in Article 2(10)). In this case Member States shall take the measures necessary to ensure that ships which call regularly during night time are inspected as appropriate.'
- (7) the following Article 8a is inserted:

'Article 8a

Force majeure

Failure to carry out an inspection for *force majeure* reasons shall not be counted as a missed inspection provided that the missed inspection and the reasons for not carrying it out are documented and recorded in the inspection database.'

- (8) Article 9 is deleted;
- (9) In Article 10(2) the following is added
- '(c) Environmental parameters
- Environmental parameters shall be based on the Carbon Intensity Indicator of the ship and the number of deficiencies relating to MARPOL, AFS, BWM Convention, CLC 92, Bunkers Convention and Nairobi Conventions in accordance with Annex I, Part I.3 and Annex II.'
- (10) In Article 14, paragraph 4 is replaced by the following:
- '4. An expanded inspection shall be carried out by no less than two port State control officers. The scope of an expanded inspection, including the risk areas to be covered, is set out in Annex VII. The Commission shall adopt by means of implementing acts detailed measures 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) In Article 14a, 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 inspected under this Article.'
- (12) Article 16 is amended as follows:
- (a) Paragraph 1 is replaced by the following:
- '1. A Member State shall refuse access to its ports and anchorages to any ship which:
- flies the flag of a State which falls into 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 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 of the Paris MOU, or

- flies the flag of a State which falls into 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 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 of the Paris MOU.

The first subparagraph of this Article shall not apply to 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.’;

- (b) Paragraph 3 is replaced by the following:

‘3. Any subsequent detention in a port or anchorage within the Union shall result in the ship being refused access to any port and anchorage within the Union. This third refusal of access order may be lifted after a period of 24 months has passed from the issue of the order and only if:

- (a) 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 Council²⁹
- (b) the ship is managed by a company with a high performance according to Annex I, Part I.1, and
- the conditions listed in paragraphs 3 to 9 of Annex VIII are met.

Any ship not meeting the criteria specified in this paragraph, after a period of 24 months has passed from the issue of the order, shall be permanently refused access to any port and anchorage within the Union.’

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

‘4. Any subsequent detention of a vessel flying the flag of a State listed in the medium or low performance list, as published in the annual report of the Paris MOU, in a port or anchorage within the Union after the third refusal of access shall result in the ship being permanently refused access to any port and anchorage within the Union.’

- (d) The following paragraph 4a is inserted:

‘4a. If a ship flying the flag of a State listed in the high performance list is detained in a port or anchorage after the third or any subsequent refusal of access and, at the time of the first subsequent ship/port interface in an EU port, the statutory and classification certificates of the ship are issued by an organisation or organisations recognised under Regulation (EC) No 391/2009 and evidence is provide that an on-board visit by the classification society has taken place prior to the issuance of such certificates, the ship shall be refused access to any port or anchorage for a period of 24 months.

²⁹

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.)’;

If at the time of the first ship/port interface the statutory or classification certificates are not issued by an organisation or organisations recognised under Regulation (EC) No 391/2009 the ship shall be permanently refused access to any port and anchorage.’

(13) In Article 21, 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 which proceed to sea:

- (a) without complying with the conditions determined by the competent authority of any Member State in the port of inspection; or
- (b) which do not comply with the applicable requirements of the Conventions by not calling into the indicated repair yard.

The refusal of access order shall be lifted after a period of 12 months has passed. The refusal of access order shall become applicable from the date of its issuing.

Such refusal shall be maintained until the owner or operator provides evidence to the satisfaction of the competent authority of the Member State where the ship was found defective, demonstrating that the ship fully complies with all applicable requirements of the Conventions.’

(14) In Article 22, paragraph 7 is replaced by the following:

‘7. In cooperation with Member States and taking into account the expertise and the experience gained in the Union and under the Paris MOU, the Commission shall develop a professional development and training programme for port State control inspectors. This training programme shall take account of the widened scope of port State control as well as improvements in the scope and forms of training.

In cooperation with the Member States, the Commission shall on a continuous basis identify and provide new training needs to amend the curricula, syllabi and content of the professional development and training programme for inspectors, especially as regards new technologies and in relation to the additional obligations arising from the relevant instruments.’

(15) Article 24 is amended as follows:

(a) paragraph 2 is 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 and anchorages, together with an identifier of the port concerned, is transferred within three hours of the departure 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 points 1.2 and 2(a) and (b) of Annex XIV to this Directive.’

(b) paragraph 3 is replaced by the following:

‘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 by a port State control inspector who was not part of the team that carried out the inspection.’

(16) the following article 24a is inserted:

‘Article 24a

Electronic certificates

1. The Commission shall, in close cooperation with the Member States, adopt implementing acts laying down the functional and technical specifications for a harmonised reporting interface, validation tool and central repository/database for electronic versions of the certificates listed in Annex IV and referred to in Article 13(1). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2).’
2. The Member States may use the harmonised reporting interface, validation tool and central repository/database for electronic versions of the certificates to facilitate the transition of their ship registers to electronic certificates.
3. Ships flying the flag of a State that issue such electronic certificates shall have this reflected in the ship risk profile (SRP) as set out in Annexes I and II.
4. The Member State shall be responsible for ensuring the submission of data elements in compliance with the applicable legal and technical requirements, The Member State shall remain responsible for the data and the validity of the information and the certificates, as well as for updating any information that has changed after the submission to the central database.’

(17) 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 port State control authority with the following types of information in their possession:

- (a) information concerning ships which have failed to notify any information according to the requirements of this Directive, Directive 2002/59/EC and to Directive (EU) 2019/883 of the European Parliament and of the Council³⁰, as well as, if appropriate, with Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security,
 - (b) information concerning ships which have proceeded to sea without having complied with Article 7 of Directive (EU) 2019/883 on port reception facilities,
 - (c) information concerning ships which have been denied entry or expelled from port on security grounds,
- information on apparent anomalies in accordance with Article 23.’

³⁰ 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).’

- (18) 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 Article 2(b) point (i) of 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 for the operational parts of the port State-related activities of its administration. Such quality management system shall be certified in accordance with the applicable international quality standards.’

- (19) in Article 30a is replaced by the following:

‘Article 30a

Delegated acts

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

- (20) in Article 31 the following is inserted:

‘4. Amendments to the relevant instruments listed in Article 2 point 1 may be excluded from the scope of this Directive pursuant to Article 5 of Regulation (EC) No 2099/2002.’

- (21) Article 33 is replaced by the following:

‘Article 33

Implementing rules

When establishing the implementing rules referred to in Articles 2(2) 3(4a), 10(3), 10(4), 14(4), 15(3), 18a(7), 23(5) 24a(6) and Article 27 in accordance with the procedures referred to in Article 31(2), the Commission shall take specific care that those rules take into account the expertise and experience gained with the inspection system in the Union and build upon the expertise of the Paris MOU.’

- (22) Article 35 is replaced by the following:

‘Article 35

Implementation review

The Commission shall by *[OP: Please insert a date: ten years from the date of entry into force of this amending Directive]* submit a report to the European Parliament and the Council on the implementation of, and compliance with, this Directive.’

- (23) Annex I is amended in accordance with Annex I to this Directive.
- (24) Annex II is replaced by the text in Annex II to this Directive.
- (25) Annex III is deleted.
- (26) Annex IV is replaced by the text in Annex III to this Directive.
- (27) Annex V is replaced by the text in Annex IV to this Directive.
- (28) Annex VIII is replaced by the text in Annex V to this Directive.

Article 2

Transposition

1. Member States shall adopt and publish, by *[OP: Please insert a date: one year 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 forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by 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 Brussels,

For the European Parliament
The President

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT 'AGENCIES'

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/16/EC on port State control

1.2. Policy area(s) concerned

Mobility and Transport – Maritime Safety

1.3. The proposal relates to

- ☐ a new action
- ☐ a new action following a pilot project/preparatory action³¹
- ☒ the extension of an existing action
- ☐ a merger of one or more actions towards another/a new action

1.4. Objective(s)

1.4.1. General objective(s)

The general objective of amending Directive 2009/16/EC is to maintain a level playing field and avoid market distortions, to ensure high levels of maritime safety and ensure prevention of maritime pollution. The revision is also contributing towards Sustainable Development Goal (SDG) 3 (“Ensure healthy lives and promote well-being for all at all stages”) and SDG 14 (“Conserve and sustainably use the oceans, seas and marine resources for sustainable development”).

1.4.2. Specific objective(s)

The specific objectives of the revision are to:

- Align EU legislation with new international rules and procedures, whether at the level of IMO/ILO or the Paris MoU.
- Protect fishing vessel, their crews and the environment.
- Ensure higher uptake of digital solutions.
- Ensure efficient and harmonised approach in undertaking port State control inspections.

³¹ As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The proposal is expected to guarantee a harmonised and high safety level of port state control across the Union and introduce a digitalised system to increase the efficiency of inspections by better ship risk targeting, better prepared inspections and easier and faster exchange of relevant information. It is also expected to increase the importance attached to the environmental aspects of port state control.

The proposal is also expected to increase the protection of fishing vessels, their crew and the environment by leading to a decrease in the lives lost and injuries sustained, as well as to the bunker fuel lost at sea.

1.4.4. *Indicators of performance*

Specify the indicators for monitoring progress and achievements.

The effectiveness of the proposed Directive, with respect to the specific objective no. 1, will be determined based on the horizontal analysis performed by EMSA and the discussions in workshops.

The effectiveness of the proposed Directive, with respect to the specific objective no. 2, will be determined based on the number of inspections of larger fishing vessels (over 24 metres) and the reports submitted in the THETIS targeting and inspection reporting database as well as the number of deficiencies and/or detentions recorded against vessels of this type calling in EU ports.

The effectiveness of the proposed Directive as regards specific objective no. 3 will be determined by the information uploaded to THETIS. The number of electronic certificates uploaded by flag states to the EMSA validation tool and central repository as well as the number of inspections in which electronic certificates are involved.

The effectiveness of the proposed Directive, with respect to the specific objective no. 4, will be determined based on the results of the annual audits of the Quality Management System which will be shared with the Commission, the number of inspections carried out by more than one inspector, and the number of inspection reports validated by someone other than the inspector carrying out the inspection and the number of infringements procedures in the next years.

1.5. **Grounds for the proposal/initiative**

1.5.1. *Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative*

EMSA will be required to organise trainings of Port State Control Officers (PSCOs) in relation to large fishing vessels with main focus on the relevant EU guidelines, and develop the relevant courses. EMSA will also be required to develop a THETIS module for fishing vessels and a common curriculum for Port State Control of fishing vessels which will cover all the relevant instructions and guidance.

EMSA will be required to organise trainings of PSCOs in relation to the use of electronic statutory certificates and will have to develop a validation tool and repository.

EMSA will be required to develop enhanced training tools/capacity development for PSCOs on new technologies, including but not limited to renewable and low carbon fuels, which are

particularly relevant in view of the “Fit for 55” package, and automation by enhancing EMSA’s online training tools and recruiting experts.

By 2025, 2 FTEs will be needed to support the tasks of EMSA to develop of the tools.

- 1.5.2. *Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.*

Reasons for action at European level (ex-ante)

EU action in the field of maritime safety ensures a harmonised application of the safety and environmental standards, and reduces any competitive advantage by disincentivising shipowners and/or flag States that may attempt to gain such advantage by not strictly following the rules and standards set out in the international conventions. By incorporating the procedures and tools of the Paris MOU into the European legislation, these become actionable before the European Court of Justice ensuring their uniform enforcement in the Union.

Expected generated Union added value (ex-post)

An EU level intervention has brought benefits which would not have been possible at national level or at IMO or Paris MOU level alone. The EU added value of the intervention in the sector, in terms of its effectiveness, efficiency and synergies that it brings. The Directive brings EU legislation in line with IMO regulation and is leading to a harmonised reporting of port state control. With respect to larger fishing vessels, the example of the Paris MOU and of the Directive as it applies to commercial transport vessels demonstrates that only harmonised procedures and common criteria for PSC of these vessels can address this issue. Failure to adapt the Directive would remove the synergistic benefits gained through its implementation.

- 1.5.3. *Lessons learned from similar experiences in the past*

The 2018 REFIT ex-post evaluation and Maritime Transport Fitness Check concluded that the PSC Directive adds value by combining a PSC control framework with a legal enforcement mechanism, to ensure correct and consistent implementation in Member States. This has resulted in pressure to perform and continuously improve, and thus to a better resource allocation at Member State level for PSC. The evaluation concluded that the PSC Directive has contributed to the intended objectives to improve maritime safety, security, pollution prevention and ensuring better working and living conditions on-board.

The assistance of EMSA has supported the EU PSC regime in important ways. The evaluation highlighted the importance of the THETIS database. Over two-thirds of EU/EEA Member States carrying out PSC inspections exclusively use THETIS in deciding which vessels to inspect. The role of EMSA in managing and updating THETIS, as well the provision by the Agency of training of inspectors to harmonise the implementation inspections throughout the Paris MoU region, was also found to be very important. In a similar vein, the Maritime Transport Fitness Check pointed to a number of possible improvements as regards PSC.

The results of the ex-post evaluation are reflected in the impact assessment accompanying this initiative as summarised in Annex 5.

1.5.4. *Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments*

The proposed revision is a key deliverable of the Communication from the Commission on a Sustainable and Smart Mobility Strategy, which sets out the EU vision for the transport system of the future. The strategy announced that the Commission is planning to initiate a major review of existing legislation on flag State responsibilities, port State control and accident investigation in 2021 (under Flagship 10 - Enhancing transport safety and security).

The proposed revision will create synergies with other pieces of EU regulatory framework, notably the Directive 2009/18/EC on accident investigation and Directive 2009/21/EC on compliance with flag State requirements.

The proposal is compatible with the current Multiannual Financial Framework, although it will require reprogramming within Heading 1 as regards the annual contribution to EMSA (budgetary offsetting by a compensatory reduction of programmed spending under CEF Transport (02 03 01)). The budget impact of the current proposal is already included in the budget for the Commission proposal for a Regulation of the European Parliament and of the Council on the European Maritime Safety Agency and repealing Regulation (EC) No 1406/2002.

The budget impact beyond the current MFF is an indicative overview, without prejudice to the future MFF Agreement.

1.5.5. *Assessment of the different available financing options, including scope for redeployment*

The budgetary impact of this initiative refers to the additional resources necessary for the increasing role of EMSA to facilitate the PSCOs (i.e. in relation to large fishing vessels organise trainings and develop a THETIS module and a common curriculum, in relation to electronic certificates develop a validation tool and repository, and develop enhanced training tools/capacity development on new technologies, including but not limited to renewable and low carbon fuels, and automation) under the proposed Directive. These are new tasks for EMSA that will become permanent, while existing tasks will not decrease or be partly phased out. The additional need of human resources cannot be met by redeployment, while the additional budgetary needs will be met through offsetting by existing programmes managed by DG MOVE under the current multiannual financial framework.

The increase in appropriations for EMSA will be offset by a compensatory reduction of programmed spending under CEF Transport (02 03 01). The budget impact of the current proposal is already included in the budget for the Commission proposal for a Regulation of the European Parliament and of the Council on the European Maritime Safety Agency and repealing Regulation (EC) No 1406/2002.

The budget impact beyond the current MFF is an indicative overview, without prejudice to the future MFF Agreement.

1.6. Duration and financial impact of the proposal/initiative

☐ **limited duration**

- ☐ Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
- ☐ Financial impact from YYYY to YYYY

☒ **unlimited duration**

- Implementation with a start-up period from YYYY to YYYY, *[n.a.]*,
- followed by full-scale operation.

1.7. Method(s) of budget implementation planned³²

☐ **Direct management** by the Commission through

- ☐ executive agencies

☐ **Shared management** with the Member States

☒ **Indirect management** by entrusting budget implementation tasks to:

☐ international organisations and their agencies (to be specified);

☐ the EIB and the European Investment Fund;

☒ bodies referred to in Articles 70 and 71;

☐ public law bodies;

☐ bodies governed by private law with a public service mission to the extent that they are provided with adequate financial guarantees;

☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that are provided with adequate financial guarantees;

☐ bodies or persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

Comments

Management of the proposed Directive will be done overall by the Commission services assisted by the European Maritime Safety Agency as appropriate.

Member States will be required to transpose the provisions of the Directive by the respective deadline.

³² Details of budget implementation methods and references to the Financial Regulation may be found on the BUDGpedia site: <https://myintracomm.ec.europa.eu/corp/budget/financial-rules/budget-implementation/Pages/implementation-methods.aspx>

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The Commission will be overall accountable for implementing the proposed Directive as well as for reporting to the European Parliament and the Council on the Member States' implementation and compliance.

The Commission has a near-real-time means of monitoring implementation of the Directive's provisions in and by the Member States since the results of port State control inspections have to be uploaded to the THETIS database within 72 hours of the inspection. The Commission and/or EMSA can thereby monitor the THETIS database to verify that inspections are being carried out as required and that the reports are uploaded to the database. These indicators will also be monitored for inspections carried out on-board fishing vessels of above 24 meters in length by those Member States which carry out these inspections.

The Commission and/or EMSA can monitor the progress of Member States effectively on a weekly basis and the Member States know that they are being monitored if a measure becomes mandatory. The Commission in that case can take swift action to address any shortcomings, including additional technical support or training from EMSA or the Commission opening an infringement procedure.

EMSA, on behalf of the Commission, also carries out visits to Member States to verify operations on the ground.

Member States will need to have a Quality Management System (QMS) to certify their organisation, policies, processes, resources and documentation are appropriate to achieve its objectives. This will have to be certified and subsequently subject to audit every five years. Member States will have to share with Commission and/or EMSA the results of the audits carried out by the accredited body such that the PSC administration retains its QMS certification.

EMSA will carry out a horizontal analysis, giving an indication of how the legislation is functioning and identifying gaps and what can be done to address them, and report to the Commission and Member States, through among others discussions in workshops.

Lastly, ten years after the end of the implementation date of the legislation, the Commission services should carry out an evaluation to verify to what extent the objectives of the initiative have been reached.

2.2. Management and control system(s)

2.2.1. *Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed*

The Commission will be overall accountable for implementing the proposed Directive as well as for reporting to the European Parliament and the Council on its efficiency and implementation. The Commission will be assisted by EMSA as appropriate in providing the IT services and developing the IT tools necessary for the reporting, monitoring and verification provisions of the proposed Directive, as well as organising trainings. Member States will be required to carry out the transposition of the Directive to their national legislation by the deadline mentioned in the Directive. Enforcement activities will be carried out as part of the Port State controls.

2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

While the Commission will be overall accountable for implementing the proposed Directive as well as for reporting to the European Parliament and the Council on the Member States' implementation and compliance, the European Maritime Safety Agency will be responsible for the performance of its operation and for the implementation of its internal control framework. It will be required to develop IT tools and modules, as well as provide training to the Port State Control officers, and the Member States will be required to carry out enforcement.

EMSA is best placed to carry out reporting and assessment of compliance tasks, as this will be technical work, requiring strong expertise in data management, as well as in-depth understanding of complex technical matters related to electronic certificates and training.

Member States are best placed to carry out the enforcement of the proposed Directive, notably by continuing enforcing port state control in a harmonized way.

DG MOVE will apply the necessary controls in line with the supervision strategy adopted in 2017 on the DG's relations with decentralised agencies and JUs. Under the strategy, DG MOVE monitors performance indicators for the implementation of the budget, the audit recommendations and administrative matters. A report is provided by the Agency on a bi-annual basis. The controls performed on the supervision of the Agency as well as on the related financial and budgetary management are in accordance with DG MOVE's Control Strategy, updated in 2022.

The additional resources put at the disposal of EMSA will be covered by EMSA's internal control and risk management system that is aligned with the relevant international standards and includes specific controls to prevent conflict of interests and ensure the protection of whistle-blowers.

2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

Under the proposed Directive, additional financing will be provided only to EMSA, which will be required to develop IT tools and modules, as well as provide training to the national PSCOs

EMSA has full responsibility for the implementation of their budget, while DG MOVE is responsible for the regular payment of the contributions established by the Budgetary Authority. The expected level of risk of error at payment and at closure is similar to that attached to the budget subsidies provided to the Agency.

The additional tasks resulting from the proposed revision are not expected to generate specific additional controls. Therefore, the cost of control for DG MOVE (measured against the value of funds managed) is expected to remain stable.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

The proposed Directive contains several provisions specifically targeted at preventing fraud and irregularities. Member States will have to have a Quality Management System (QMS) to certify their organisation, policies, processes, resources and documentation are appropriate to achieve its objectives. This will have to be certified and subsequently subject to audit every five years. Member States will have to share with Commission and/or EMSA the results of the audits carried out by the accredited body such that the PSC administration retains its QMS certification. The Directive also provides that all PSC inspection reports are validated by a person (either another port State control inspector or a supervisor) other than the inspector who carried out the inspection before the inspection report is transferred to the database.

EMSA applies the anti-fraud principles of decentralised EU Agencies, in line with the Commission approach. In March 2021, the Agency adopted an updated Anti-Fraud Strategy, based on the methodology and guidance for anti-fraud strategy presented by OLAF as well as on the Anti-Fraud Strategy of DG MOVE. It provides a framework addressing the issues of prevention, detection and conditions for investigations of fraud at Agency level. EMSA continuously adapts and improves its policies and actions to promote the highest level of integrity of EMSA staff, support effective prevention and detection of fraud risk and establish the appropriate procedures to report and handle potential fraud cases and their outcome. Furthermore, EMSA adopted in 2015 its Conflict of Interest policy for the Management Board.

EMSA cooperates with the Commission services on matters relating to preventing fraud and irregularity. The Commission will ensure that this cooperation will continue and will be strengthened.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff. ³³	from EFTA countries ³⁴	from candidate countries and potential candidates ³⁵	From other third countries	other assigned revenue
1	02 10 02	Non-diff.	YES	NO	NO	NO

- New budget lines requested

³³ Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

³⁴ EFTA: European Free Trade Association.

³⁵ Candidate countries and, where applicable, potential candidates from the Western Balkans.

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./non-diff.	from EFTA countries	from candidate countries and potential candidates	from other third countries	other assigned revenue
	[XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial framework	1	Single Market, Innovation and Digital
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European Maritime Safety Agency (EMSA)			Year 2025	Year 2026	Year 2027	Year 2028-2034	TOTAL
Title 1:	Commitments	(1)	0.171	0.342	0.342	2.394	3.249
	Payments	(2)	0.171	0.342	0.342	2.394	3.249
Title 2:	Commitments	(1a)					
	Payments	(2a)					
Title 3:	Commitments	(3a)	0.068	0.479	0.504	1.778	2.829
	Payments	(3b)	0.068	0.479	0.504	1.778	2.829
TOTAL appropriations for EMSA	Commitments	=1+1a +3a	0.239	0.821	0.846	4.172	6.078
	Payments	=2+2a +3b	0.239	0.821	0.846	4.172	6.078

The budget impact beyond the current MFF is an indicative overview, without prejudice to the future MFF Agreement.

Heading of multiannual financial framework	7	‘Administrative expenditure’
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EUR million (to three decimal places)

		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
DG: <.....>									
• Human Resources									
• Other administrative expenditure									
TOTAL DG <.....>	Appropriations								

TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)								
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EUR million (to three decimal places)

		Year 2025	Year 2026	Year 2027	Year 2028-2034	TOTAL
TOTAL appropriations under HEADINGS 1 to 7 of the multiannual financial framework	Commitments	0.239	0.821	0.846	4.172	6.078
	Payments	0.239	0.821	0.846	4.172	6.078

The budget impact beyond the current MFF is an indicative overview, without prejudice to the future MFF Agreement.

3.2.2. Estimated impact on EMSA's appropriations

- ☒ The proposal/initiative does not require the use of operational appropriations
- ☐ The proposal/initiative requires the use of operational appropriations, as explained below:

Amounts in EUR million (to three decimal places)

Indicate objectives and outputs ↓			Year N		Year N+1		Year N+2		Year N+3		Enter as many years as necessary to show the duration of the impact (see point 1.6)						TOTAL	
	OUTPUTS																	
	Type ³⁶	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 ³⁷ ...																		
- Output																		
- Output																		
- Output																		
Subtotal for specific objective No 1																		
SPECIFIC OBJECTIVE No 2 ...																		
- Output																		
Subtotal for specific objective No 2																		
TOTAL COST																		

Where applicable, amounts reflect the sum of the Union contribution to the agency and other revenue of the agency (fees and charges).

³⁶ Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).
³⁷ As described in point 1.4.2. ‘Specific objective(s)...’

3.2.3. Estimated impact on EMSA's human resources

3.2.3.1. Summary

- ☐ The proposal/initiative does not require the use of appropriations of an administrative nature
- ☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places) Where applicable, amounts reflect the sum of the Union contribution to the agency and other revenue of the agency (fees and charges).

	Year 2025	Year 2026	Year 2027	Year 2028-2034	TOTAL
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Temporary agents (AD Grades)	0.171	0.342	0.342	2.394	3.249
Temporary agents (AST grades)					
Contract staff					
Seconded National Experts					

TOTAL	0.171	0.342	0.342	2.394	3.249
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The budget impact beyond the current MFF is an indicative overview, without prejudice to the future MFF Agreement.

Staff requirements (FTE):

	Year 2025	Year 2026	Year 2027	Year 2028-2034	TOTAL
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Temporary agents (AD Grades)	2	2	2	2	2
Temporary agents (AST grades)					
Contract staff					
Seconded National Experts					

TOTAL	2	2	2	2	2
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The budget impact beyond the current MFF is an indicative overview, without prejudice to the future MFF Agreement.

EMSA will start preparing the recruitment as soon as the proposal is adopted. The costs are estimated based on the assumption that the 2 FTEs are recruited as of 1st July 2025. So only 50% of the HR costs are needed for the first year.

3.2.3.2. Estimated requirements of human resources for the parent DG

- ☒ The proposal/initiative does not require the use of human resources.
- ☐ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full amounts (or at most to one decimal place)

		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)	
• Establishment plan posts (officials and temporary staff)							
20 01 02 01 and 20 01 02 02 (Headquarters and Commission's Representation Offices)							
20 01 02 03 (Delegations)							
01 01 01 01 (Indirect research)							
10 01 05 01 (Direct research)							
• External staff (in Full Time Equivalent unit: FTE)³⁸							
20 02 01 (AC, END, INT from the 'global envelope')							
20 02 03 (AC, AL, END, INT and JPD in the Delegations)							
Budget line(s) (specify) ³⁹	- at Headquarters ⁴⁰						
	- in Delegations						
01 01 01 02 (AC, END, INT – Indirect research)							
10 01 05 02 (AC, END, INT – Direct research)							
Other budget lines (specify)							
TOTAL							

³⁸ AC = Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JPD = Junior Professionals in Delegations.

³⁹ Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

⁴⁰ Mainly for the EU Cohesion Policy Funds, the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime Fisheries and Aquaculture Fund (EMFAF).

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	
External staff	

Description of the calculation of cost for FTE units should be included in the Annex V, section 3.

3.2.4. Compatibility with the current multiannual financial framework

- ☒ The proposal/initiative is compatible the current multiannual financial framework.
- ☒ The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

The tasks allocated to EMSA will require reprogramming of the budget line for the annual contribution to the Agency (02 10 02) under the current multiannual financial framework. The increase in appropriations for EMSA will be offset by a compensatory reduction of programmed spending under CEF Transport (02 03 01) under the current multiannual financial framework. The budget impact beyond the current MFF is an indicative overview, without prejudice to the future MFF Agreement.

- ☐ The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework⁴¹.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. Third-party contributions

- The proposal/initiative does not provide for co-financing by third parties.
- The proposal/initiative provides for the co-financing estimated below:

EUR million (to three decimal places)

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

⁴¹ See Articles 12 and 13 of Council Regulation (EU, Euratom) No 2093/2020 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027.

3.3. Estimated impact on revenue

– ☒ The proposal/initiative has no financial impact on revenue.

– ☐ The proposal/initiative has the following financial impact:

☐ on own resources

☐ on other revenue

please indicate, if the revenue is assigned to expenditure lines ☐

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative ⁴²						
		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article								

For miscellaneous ‘assigned’ revenue, specify the budget expenditure line(s) affected.

Specify the method for calculating the impact on revenue.

⁴² As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.