



Plenary sitting

A9-0419/2023

8.12.2023

*****I**

REPORT

on the proposal for a directive of the European Parliament and of the Council
amending Directive 2009/16/EC on port State control
(COM(2023)0271 – C9-0191/2023 – 2023/0165(COD))

Committee on Transport and Tourism

Rapporteur: Vera Tax

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ***■*** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	4
EXPLANATORY STATEMENT	26
ANNEX: ENTITIES OR PERSONS FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT	28
OPINION OF THE COMMITTEE ON FISHERIES	29
PROCEDURE – COMMITTEE RESPONSIBLE	39
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE	40

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council amending Directive 2009/16/EC on port State control
(COM(2023)0271 – C9-0191/2023 – 2023/0165(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0271),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0191/2023),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 20 September 2023¹,
 - after consulting the Committee of the Regions,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Fisheries,
 - having regard to the report of the Committee on Transport and Tourism (A9-0419/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ Not yet published in the Official Journal.

Amendment 1

Proposal for a directive Recital 1

Text proposed by the Commission

(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.

²⁵ OJ L 131, 28.5.2009, p. 57

Amendment

(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 ***and the working and living conditions*** 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 ***board, on*** the protection of marine environment.

²⁵ OJ L 131, 28.5.2009, p. 57

Amendment 2

Proposal for a directive Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) In view of the commitment of Member States to ratifying the 2012 Cape Town Agreement, Member States that have not yet ratified that agreement should initiate the ratification process as soon as possible. Furthermore, those Member States that have already ratified that agreement should implement it immediately.

Amendment 3

Proposal for a directive Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) The Hong Kong International Convention for the safe and environmentally sound recycling of ships will enter into force as of 26 June 2025. The present directive should provide for its enforcement.

Amendment 4

Proposal for a directive Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) In order to create a level playing field throughout the Union, it is preferable to first transpose the fisheries conventions in the community aquis with a view of creating a harmonised community control system. However, there are already Member States which have ratified international conventions such as the ILO C188 and the STCW-F, who have the responsibility of applying the Port State Control measures.

Amendment 5

Proposal for a directive Recital 5 c (new)

Text proposed by the Commission

Amendment

(5c) It is of high importance that Member States that have not ratified international conventions relating to fisheries, especially ILO C188 and IMO STCW-F and IMO CTA, do so as soon as possible, in order to avoid the risk that Member States will apply the rules differently. The Commission should actively encourage and assist Member States to ratify relevant international conventions. In order to ensure

harmonised approaches in the implementation of these international obligations these should be transposed on Union level with a view to then establish a harmonised approach to control these obligations, including harmonised inspections systems on the control and enforcement of the provisions of the Convention C188.

Amendment 6

Proposal for a directive Recital 5 d (new)

Text proposed by the Commission

Amendment

(5d) The Commission should further assess and follow up on the ratification of the international agreements containing obligations relating to fishing activities and where appropriate present a legislative proposal for a harmonised transposition of these international obligations into Union law, particularly regarding the IMO STCW-F Convention on a harmonized inspection system on the control and application of the provisions of Convention C188 as well as implementing measures in relation to Directive (EU) 2017/159.

Amendment 7

Proposal for a directive Recital 6

Text proposed by the Commission

Amendment

(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

(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.

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 **port State control**. 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.

Nevertheless, the inspection criteria for fishing vessels should be aligned as far as possible with the Cape Town Agreement inspection criteria, since all Member States have committed themselves to ratifying it in order to avoid the fragmentation of practices across the Union ports. This will facilitate the collecting of more complete data including on accidents and injuries aboard such vessels and the improving of the health and safety of the seafarers and fishermen working on them.

Amendment 8

Proposal for a directive

Recital 7

Text proposed by the Commission

(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

Amendment

(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. ***This voluntary***

MoU and the Commission.

system should be promoted as it will help Member States and larger fishing vessels prepare for the entry into force of the Cape Town Agreement of 2012 on the Implementation of the Provisions of the 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977 (the 'Cape Town Agreement') to enhance fishing vessel safety. As early as possible after the entry into force of that agreement, the Commission should align existing Union legal acts accordingly, and in particular Council Directive 97/70/EC^{1a}. The mandatory port State control enforcement regime to be introduced in the Union after the entry into force of the Cape Town Agreement should take account of existing voluntary systems for the port State control of fishing vessels referred to in this Directive.

^{1a} Council Directive 97/70/EC of 11 December 1997 setting up a harmonized safety regime for fishing vessels of 24 meters in length and over (OJ L 34, 9.2.1998, p. 1, ELI: <http://data.europa.eu/eli/dir/1997/70/oj>).

Amendment 9

Proposal for a directive Recital 11

Text proposed by the Commission

(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

Amendment

(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.

are being increasingly used to enforce environmental legislation such as in relation to sulphur emissions or the safe and environmental scrapping of ships. *In line with its commitments under the Paris Agreement^{1a}, adopted on 12 December 2015 under the United Nations Framework Convention on Climate Change, the Union should continue to exert its leadership in a sector that is regulated both at European and international level and is still highly dependent on fossil fuels.* 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.

^{1a} OJ L 282, 19.10.2016, p. 4.

Amendment 10

Proposal for a directive Recital 12

Text proposed by the Commission

(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.

Amendment

(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. ***Port State control can play an important role in ensuring that ‘Fit for 55’ measures that apply to the maritime sector are effective through the imposition of more numerous inspections on polluting ships. While safeguarding the competitiveness of the sector this will help promote the use of on-shore power supply or any other***

energy saving technology which reduces greenhouse gas emissions and air pollutants in ports. This, along with the support to port industries, small and medium enterprises and start-ups specialised in circular economy and investment in renewable, low and zero emission alternatives, will contribute to the achievement of the Union's climate neutrality goals.

Amendment 11

Proposal for a directive Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) As soon as the IMO has concluded the revision of its carbon intensity indicator (CII), the Commission should adopt a delegated act in order to amend this Directive by including the carbon intensity indicator adopted by the IMO among the environmental parameters used for the determination of a ship risk profile of a ship under this Directive.

Amendment 12

Proposal for a directive Recital 13

Text proposed by the Commission

Amendment

(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

(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.

ship focussed better prepared inspections. The uptake and use of these electronic certificates should be incentivised by their inclusion in the ship risk profile. ***It is important for the Union to support the research and innovation, as well as the upskilling and reskilling of seafarers in order to optimise the benefits that digitalisation and automation can bring to the maritime sector, in particular in terms of reducing emissions.***

Amendment 13

Proposal for a directive Recital 14

Text proposed by the Commission

(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.

Amendment

(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 ***and the International Labour Organization***. There is therefore a need to ensure the upskilling and reskilling of the port State control officers and continuously develop their training. ***More specifically, more emphasis should be placed on training concerning respect for seafarers' welfare, in particular regarding the verification of the work and rest hour records, since insufficient rest affects the safety of the ship and the work performance, and regarding the occupational health of seafarers. The competent authorities of the port State should also implement their responsibilities effectively under the ILO Work in Fishing Convention, 2007 (No. 188). It is important to take into account the on-board working and living conditions of the crew and the training and qualifications of its members, given that health, safety, security and social considerations are closely interlinked and that it is of utmost importance to prevent any damage caused by human factors. In***

particular, when considering detention of a ship based on serious or repeated breach of MLC 2006 requirements (including seafarers' rights) the competent authorities should take also take into account minimum wages, working hours and rest periods.

Amendment 14

Proposal for a directive Recital 15

Text proposed by the Commission

(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.

Amendment

(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. ***The competent authorities of the port States should verify compliance with applicable international conventions on maritime safety and security, on protection of the marine environment and on living and working conditions on-board, in respect of the ships calling at their ports. In conducting such monitoring activities, the port State should not interfere with the competences of a flag State, as set out by international conventions such as Article 94 of UNCLOS and Union legal acts such as Directive 2013/54/EU of the European Parliament and of the Council^{26a}.***

²⁶ Directive 2009/21/EC of the European

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).

Parliament and of the Council of 23 April 2009 on compliance with flag State requirements (OJ L 131, 28.5.2009, p. 132).

^{26a} Directive 2013/54/EU of the European Parliament and of the Council of 20 November 2013 concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention, 2006.

Amendment 15

Proposal for a directive Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) Member States must apply the same criteria to national fleets and other European flags calling their ports. No differences should occur in the treatment of Union fishing vessels and between the different national control systems implemented.

Amendment 16

Proposal for a directive Recital 19

Text proposed by the Commission

Amendment

(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.

(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 [**5** 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.

Amendment 17

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point a – **introductory part**

Text proposed by the Commission

(a) in point 1 the following points **(i)** and **(m)** are added:

Amendment

(a) in point 1 the following points **(l)**, **(m)** and **(ma)** are added:

Amendment 18

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point a

Directive 2009/16/EC

Article 2 – paragraph 1 – point m a (new)

Text proposed by the Commission

Amendment

(ma) The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (“The Hong Kong Convention”).’

Amendment 19

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point b

Directive 2009/16/EC

Article 3 – paragraph 4a

Text proposed by the Commission

Amendment

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).

4a. **Until such time as a mandatory port State control regime for fishing vessels applies throughout the Union, as a result of the entry into force of the Cape Town Agreement and the amendment of the relevant Union legal acts, individual** 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).

Amendment 20

Proposal for a directive

Article 1 – paragraph 1 – point 7

Directive 2009/16/EC

Article 8a – paragraph 1

Text proposed by the Commission

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.

Amendment

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, recorded in the inspection database **and reported to EMSA**.

Amendment 21

Proposal for a directive

Article 1 – paragraph 1 – point 9

Directive 2009/16/EC

Article 10 – paragraph 2 – point c

Text proposed by the Commission

‘(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.

Amendment

‘(c) Environmental parameters

Environmental parameters shall be based on the number of deficiencies relating to MARPOL, AFS, BWM Convention, CLC 92, Bunkers Convention and Nairobi Conventions, **and the provision of valid documentation relating to Regulation (EU) No 1257/2013 or the Hong Kong Convention**, in accordance with Annex I, Part I.3 and Annex II.

Amendment 22

Proposal for a directive

Article 1 – paragraph 1 – point 12 a (new)

Directive 2009/16/EC

Article 18 – paragraph 5

Present text

Member States shall inform the flag State administration, with a copy to the International Labour Organisation (ILO) *if appropriate*, of complaints not manifestly unfounded and of follow-up actions taken.

Amendment

(12 a) In Article 18, paragraph 5 is replaced by the following:

‘Member States shall inform the flag State administration, with a copy to the International Labour Organisation (ILO) **and the European Maritime Safety Agency (EMSA)**, of complaints not manifestly unfounded and of follow-up actions taken. **The Agency shall be invited by Member States, in line with the EMSA regulation, to provide operational and technical support concerning safety investigations.**’

(32009L0016)

Amendment 23

Proposal for a directive

Article 1 – paragraph 1 – point 13

Directive 2009/16/EC

Article 21 – paragraph 4 – subparagraph 2

Text proposed by the Commission

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.

Amendment

The refusal of access order shall become applicable from the date of its issuing.

Amendment 24

Proposal for a directive

Article 1 – paragraph 1 – point 13

Directive 2009/16/EC

Article 21 – paragraph 4 – subparagraph 3

Text proposed by the Commission

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.

Amendment

The refusal ***of access order*** shall be ***lifted after a period of 12 months has elapsed on condition that*** 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.

Amendment 25

Proposal for a directive

Article 1 – paragraph 1 – point 14

Directive 2009/16/EC

Article 22 – paragraph 7 – subparagraph 1

Text proposed by the Commission

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.

Amendment

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 ***ensure adequate support for the harmonisation of port State control practices across the Union, reporting to the European Parliament and the Council every 4 years on the level of harmonisation and standards of the inspections. It shall also*** 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. ***The Commission shall build on the expertise of EMSA and support its activity, as the trainings it proposes contribute to the harmonisation of port State control officers' practices.***

Amendment 26

Proposal for a directive

Article 1 – paragraph 1 – point 14

Directive 2009/16/EC

Article 22 – paragraph 7 – subparagraph 2

Text proposed by the Commission

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.

Amendment

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 ***in order to facilitate compliance with environmental, social, public health and labour law standards and safety on-board ships calling at Union ports for both seafarers and dock workers, with a special focus on female workers.***

Amendment 27

Proposal for a directive

Article 1 – paragraph 1 – point 14

Directive 2009/16/EC

Article 22 – paragraph 7 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The Commission, with the involvement of EMSA, shall produce a guidance document offering advice on how to implement international Conventions, in particular the MLC 2006, with regard to port State control. EMSA shall also provide detailed information about the most frequent problems detected during port State inspections of ships under each flag.

Amendment 28

Proposal for a directive

Article 1 – paragraph 1 – point 14 a (new)

Directive 2009/16/EC

Article 23 – paragraph 1

Present text

1. Member States shall take appropriate measures to ensure that their pilots engaged on the berthing or unberthing of ships or engaged on ships bound for a port or in transit within a Member State immediately inform the competent authority of the port State or the coastal State, as appropriate, whenever they learn in the course of their normal duties that there are apparent anomalies which may prejudice the safe navigation of the ship, or which may pose a threat of harm to the marine environment.

Amendment

(14a) In Article 23, paragraphs 1 and 2 are replaced by the following:

‘1. Member States shall take appropriate measures to ensure that their pilots engaged on the berthing or unberthing of ships or engaged on ships bound for a port or in transit within a Member State immediately inform the competent authority of the port State or the coastal State, as appropriate, whenever they learn in the course of their normal duties that there are apparent anomalies which may prejudice the safe navigation of the ship, or **safety of seafarers on board or** which may pose a threat of harm to the marine environment.’

(02009L0016-20191221)

Amendment 29

Proposal for a directive

Article 1 – paragraph 1 – point 14 a (new)

Directive 2009/16/EC

Article 23 – paragraph 2

Present text

2. If port authorities or bodies, in the course of their normal duties, learn that a ship within their port has apparent anomalies which may prejudice the safety of the ship or poses an unreasonable threat of harm to the marine environment, such authority or body shall immediately inform the competent authority of the port State concerned.

Amendment

2. If port authorities or bodies, in the course of their normal duties, learn that a ship within their port has apparent anomalies which may prejudice the safety of the ship or **seafarers on board or** poses an unreasonable threat of harm to the marine environment, such authority or body shall immediately inform the competent authority of the port State concerned.

(02009L0016-20191221)

Amendment 30

Proposal for a directive

Article 1 – paragraph 1 – point 16

Directive 2009/16/EC

Article 24a – paragraph 2

Text proposed by the Commission

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.

Amendment

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.

Electronic certificates shall be mandatory for all Members States as early as possible after the entry into force of this amending directive and in any case no later than three years thereafter.

Amendment 31

Proposal for a directive

Article 1 – paragraph 1 – point 16

Directive 2009/16/EC

Article 24a – paragraph 3

Text proposed by the Commission

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.

Amendment

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 ***until the electronic certificate becomes compulsory.***

Amendment 32

Proposal for a directive

Article 1 – paragraph 1 – point 17 a (new)

Directive 2009/16/EC

Article 26

Present text

Amendment

(17a) Article 26 is replaced by the following:

Article 26

‘Article 26

Publication of information

Publication of information

The Commission shall make available and maintain on a public website the information on inspections, detentions and refusals of access in accordance with Annex XIII, building upon the expertise and experience under the Paris MOU.

Publication of information. The Commission shall make available and maintain on a public website the information on inspections, detentions and refusals of access in accordance with Annex XIII, building upon the expertise and experience under the Paris MOU. ***Information identifying an individual ship shall only be made publicly available if all legal proceedings are finalised and there is no appeal.***

(02009L0016-20191221)

Amendment 33

Proposal for a directive

Article 1 – paragraph 1 – point 22

Directive 2009/16/EC

Article 35 – paragraph 1

Text proposed by the Commission

Amendment

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.

The Commission shall by [OP: Please insert a date: ***five*** 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. ***The Commission shall determine on the basis of the report whether it is necessary to submit a legislative proposal for the amendment of this Directive or for further legal acts in this area.***

Amendment 34

Proposal for a directive

Article 1 – paragraph 1 – point 22

Directive 2009/16/EC

Article 35 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

In any event, as soon as the IMO has adopted a carbon intensity indicator (CII), the Commission shall adopt a delegated act, in accordance with Article 30b, in order to amend Annex I and Annex II of this Directive by including the carbon intensity indicator adopted by the IMO among the environmental parameters used for the determination of a ship risk profile of a ship under this Directive.

Amendment 35

Proposal for a directive

Article 1 – paragraph 1 – point 22

Directive 2009/16/EC

Article 35 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

By ... [date five years from the date of entry into force of this amending Directive], the Commission shall by submit a report to the European Parliament and the Council on the progress by Member States on the ratification of international agreements containing obligations related to fisheries as well as assessing how these obligations should be transposed into Union law and, where appropriate, present a legislative proposal to this effect.

Amendment 36

Proposal for a directive

Annex I – point I – point g – subpoint i

Directive 2009/16/EC

Annex I

Text proposed by the Commission

Amendment

- (i) ***The Carbon Intensity Indicator of the ship, ships which are category D-E shall be considered as posing a higher risk.*** ***deleted***

Amendment 37

Proposal for a directive

Annex I – point I – subparagraph g – subpoint iia (new)

Directive 2009/16/EC

Annex I

Text proposed by the Commission

Amendment

(iia) Ships which do not have a valid inventory of hazardous substances as detailed in Regulation (EU) No 1257/2013 or in the Hong Kong Convention shall be considered a higher risk

Amendment 38

Proposal for a directive

Annex II – table – point 8

Directive 2009/16/EC

Annex II

<i>Text proposed by the Commission</i>						
8	Carbon Intensity Indicator (CII)	Rating	D-E	1		
<i>Amendment</i>						
8	<i>Deleted</i>					

Amendment 39

Proposal for a directive
Annex II – table – point 9 a (new)
 Directive 2009/16/EC
 Annex II

<i>Text proposed by the Commission</i>						
<i>Amendment</i>						
<i>9a</i>	<i>Ships which do not have a valid inventory of hazardous substances as detailed in Regulation (EU) No 1257/2013 or in the Hong Kong Convention shall be considered a higher risk</i>		<i>No valid documentaion</i>	<i>1</i>		

Amendment 40

Proposal for a directive
Annex III – Part A – point 54 a (new)
 Directive 2009/16/EC
 Annex III

Text proposed by the Commission

Amendment

54a. Valid inventory of hazardous substances as detailed in Regulation (EU) No 1257/2013 or in the Hong Kong Convention

EXPLANATORY STATEMENT

The Rapporteur welcomes the presentation of the Maritime Safety Package and the revision of the Port State control directive. Ms Tax supports the overall objective of this revision, which is to adapt the EU legislation to revised international regulations while ensuring a level playing field and the competitiveness of EU shipping.

The Rapporteur focused her draft report on a few elements, which require in her view some adjustments.

1) Better consideration of the European Green Deal

Ms. Tax believes that Port State Control can successfully reduce greenhouse gas emissions in line with the Climate neutrality commitment of the EU, while safeguarding the sector's competitiveness and helping incentivize shore-side electricity or any other energy-saving technology, which reduces greenhouse emissions and air pollutants in ports.

Therefore, the rapporteur welcomes the Commission's proposal to make the control regime more responsive to the EU's climate priorities by considering the environmental deficiencies identified during port state inspections and the ship's CO₂ emissions index in defining the ship's risk profile.

In her report, the Rapporteur insisted on the contribution Port State Control can make to the reduction of greenhouse gas emissions in line with the Climate neutrality commitment of the EU. The EU must retain a leading role in the negotiations towards emissions reduction within the IMO framework.

2) Introduction of voluntary Port State controls on fishing vessels over 24 meters

The rapporteur supports this introduction, which promotes compliance with international standards as well as the development of guidelines for carrying out port state inspections on fishing vessels; this will contribute to improve the level of safety aboard these ships, which experience a relatively high level of accidents.

Ms Tax believes such controls should become compulsory as soon as the Cape Town Agreement to enhance fishing enters into force and the relevant EU legislation is updated accordingly.

3) Digitalization and e-certificate

The Rapporteur welcomes the Commission's proposal that uptake and use of the electronic certificates should be incentivised by their inclusion in the ship risk profile. A widespread use of digital certificates and the linking of database will contribute to more efficient and targeted inspections. More generally, automation and digitalization have significant potential to contribute to decarbonisation and emission reductions, and to foster cooperation between stakeholders

In her report, the Rapporteur calls for investments, research and innovation in the domain of

digitalization. Ms Tax highlights that this evolution will require new skills from seafarers and that they should therefore receive adequate training to ensure ships' safety and operational efficiency.

4) Seafarers welfare

The Rapporteur thinks that Port State control should recognize the detrimental impacts of insufficient rest on ship safety, work performance and occupational health and safety. Training of PSC officers should put more emphasis on the respect of seafarers' and dockers' welfare and fundamental rights to decent working and living conditions, in particular through the systematic verification of the work/rest hour records.

The Rapporteur supports in that regards, the Commission's proposal to develop a professional development and training programme for port State control inspectors, which will contribute to an efficient and harmonized approach to Port State Controls with the support and expertise of EMSA

Finally, the Rapporteur believes that the Commission shall, not later than seven years after the date of entry into force of this amending Directive and every five years thereafter, submit a report to the European Parliament and the Council on implementing, and compliance with, this Directive.

**ANNEX: ENTITIES OR PERSONS
FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT**

Pursuant to Article 8 of Annex I to the Rules of Procedure, the rapporteur declares that she has received input from the following entities or persons in the preparation of the report, until the adoption thereof in committee:

Entity and/or person
KVNR
European Commission
ECSA
ETF
IACS
Netherlands Per. Rep.
T&E
WSC
EUDA
EMSA

The list above is drawn up under the exclusive responsibility of the rapporteur.

29.11.2023

OPINION OF THE COMMITTEE ON FISHERIES

for the Committee on Transport and Tourism

on the proposal for a directive of the European Parliament and of the Council amending Directive 2009/16/EC on port State control (COM(2023)0271 – C9-0191/2023 – 2023/0165(COD))

Rapporteur for opinion: Izaskun Bilbao Barandica

SHORT JUSTIFICATION

Fisheries vessels are not currently covered by the Port State Control directive, however more and more international obligations cover fishing vessels and the need for port state control on fishing vessels is increasing.

The Commission noted that the current EU requirements do not apply for fishing vessels and that certain international obligations in relation to fishing vessels are not enforced by port state controls and are not inspected in a coordinated manner. These international obligations are primarily targeting fishing vessels above 24m.

The Commission therefore proposes to include fishing vessels above 24 meter in the scope of the directive and that Member States, on a voluntary basis, can carry out port state control inspections on these vessels. For these inspections the Commission proposes that they should be given implementing powers to define the modalities for such specific port state control regimes for fishing vessels above 24m.

The rapporteur considers that the voluntary schemes should be developed in close cooperation between Member States and the Commission in order to ensure a more harmonised approach to controls. The harmonised approach is of importance for the level playing field and sees positively on the proposal that the Commission should develop the modalities for the specific ports state control regimes for fishing vessels. However the rapporteur sees these modalities as potentially important part of the rules regarding port state control, and especially considering that rules on the modalities for the normal port state control regime is set out in the basic act, the rapporteur proposes that these modalities should be set out in the form of delegated acts.

The rapporteur believes that it is important that more Member States are ratifying and implementing the international obligations relating to fishing vessels and fishing activities so as to ensure a high global standard and a level playing field for fishers. The rapporteur believes that it is essential that these international obligations are implemented and controlled in a harmonised manner in the EU in order to ensure a level playing field for all EU fishers. Therefore the rapporteur is of the opinion that the Commission should assess the progress by Member States in ratifying and implementing these international obligations and where

appropriate put forward legislative proposals for a harmonised implementation and control of the measures.

AMENDMENTS

The Committee on Fisheries calls on the Committee on Transport and Tourism, as the committee responsible, to take the following into account:

Amendment 1

Proposal for a directive Recital 5 a (new)

Text proposed by the Commission

Amendment

(5 a) In order to create a level playing field throughout the Union, it is preferable to first transpose the fisheries conventions in the community aquis with a view of creating a harmonised community control system. However, there are already Member States which have ratified international conventions such as the ILO C188 and the STCW-F, who have the responsibility of applying the Port State Control measures.

Amendment 2

Proposal for a directive Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) It is of high importance that Member States that have not ratified international conventions relating to fisheries, especially ILO C188 and IMO STCW-F and IMO CTA, do so as soon as possible, in order to avoid the risk that Member States will apply the rules differently and the Commission should, actively encourage and assist Member States to ratify relevant international conventions. In order to ensure harmonised approaches in the

implementation of these international obligations these should be transposed on EU-level with a view to then establish a harmonised approach to control of these obligations, including harmonised inspections systems on the control and enforcement of the provisions of the Convention C188.

Amendment 3

Proposal for a directive Recital 5 c (new)

Text proposed by the Commission

Amendment

(5c) The Commission should further assess and follow the ratification of the international obligations relating to fishing activities and where appropriate present a legislative proposal for a harmonised transposition of these international obligations, particularly regarding the IMO STCW-F Convention on an harmonized inspection system on the control and application of the provisions of Convention C188 as well as implementing measures in relation to Directive (EU) 2017/159.

Amendment 4

Proposal for a directive Recital 7

Text proposed by the Commission

Amendment

(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

(7) However, due to the patterns of fishing not all EU Member States are visited by these larger fishing vessels. ***Additionally, in fisheries there is no harmonized legal framework at EU level on domains such as maritime safety, vessels' construction and living and working conditions on board.*** Therefore, a voluntary system for those EU Member States that wish to carry out these

control of fishing vessel of over 24 metres in length can therefore be developed organically by Member States, the Paris MoU and the Commission.

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. ***The port State control rules developed must be proportionate and non-discriminatory. Member States carrying out those voluntary inspections may make use of financial assistance (EMFAF), in order to ensure sufficient means and human resources to this end.***

Amendment 5

Proposal for a directive Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) Member States must apply the same criteria to national fleets and other European flags calling their ports. No differences should occur in the treatment of EU fishing vessels and between the different national control systems implemented.

Amendment 6

Proposal for a directive Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) In order to set the modalities for the specific port state control regime for fishing vessels delegated powers should be conferred on the Commission. In the exercise of its delegated powers the Commission shall take into account the need to ensure a level playing field in terms of port State control rules among

Amendment 7

Proposal for a directive

Article 1 – paragraph 1 – point 2 – point b

Directive 2009/16/EC

Article 3 – paragraph 4a

Text proposed by the Commission

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)***.

Amendment

4a. Member States may carry out port state control inspections of fishing vessels of above 24 metres length overall . The Commission shall adopt ***delegated*** acts establishing the modalities of such a specific port state control regime for fishing vessels above 24 meters length overall. Those ***delegated*** acts shall be adopted in accordance with Article ***30b***.

Amendment 8

Proposal for a directive

Article 1 – paragraph 1 – point 19

Directive 2009/16/EC

Article 30 a – paragraph 1

Text proposed by the Commission

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***.

Amendment

In accordance with the Article 30b, the Commission shall be empowered to adopt delegated acts 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 add and/or update the list of procedures and guidelines relating to port State control ***set out in Annex VI , following their adoption*** by the Paris MOU.

Amendment 9

Proposal for a directive

Article 1 – paragraph 1 – point 19 a (new)

Directive 2009/16/EC

Article 30 b – paragraph 5

Present text

5. A delegated act adopted pursuant to Article 30a shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment

(19a) in Article 30b, paragraph 5 is replaced by the following:

‘5. A delegated act adopted pursuant to **Article 3(4a) and** Article 30a shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.’

Amendment 10

Proposal for a directive

Article 1 – paragraph 1 – point 22

Directive 2009/16/EC

Article 35 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall by [OP: Please insert a date: five years from the date of entry into force of this amending Directive] submit a report to the European Parliament and the Council on the progress by Member States on the ratification of international obligations related to fisheries as well as assessing how these obligations should be transposed on EU-level and, where appropriate, present a legislative proposal to this effect.

**ANNEX: ENTITIES OR PERSONS
FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT**

The rapporteur has received input from the following entities or persons in the preparation of the opinion, until the adoption thereof in committee:

Entity and/or person
European Commission
Europeche
European Transport Workers Federation

The list above is drawn up under the exclusive responsibility of the rapporteur.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Amending Directive 2009/16/EC on port State control
References	COM(2023)0271 – C9-0191/2023 – 2023/0165(COD)
Committee responsible Date announced in plenary	TRAN 10.7.2023
Opinion by Date announced in plenary	PECH 10.7.2023
Rapporteur for the opinion Date appointed	Izaskun Bilbao Barandica 18.7.2023
Discussed in committee	9.10.2023
Date adopted	29.11.2023
Result of final vote	+: 23 –: 0 0: 1
Members present for the final vote	Clara Aguilera, João Albuquerque, Pietro Bartolo, Izaskun Bilbao Barandica, Isabel Carvalhais, Maria da Graça Carvalho, Asger Christensen, Rosa D’Amato, Francisco Guerreiro, Anja Haga, Niclas Herbst, Ladislav Ilčić, France Jamet, Predrag Fred Matić, Francisco José Millán Mon, Ana Miranda, João Pimenta Lopes, Caroline Roose, Bert-Jan Ruissen, Marc Tarabella, Theodoros Zagorakis
Substitutes present for the final vote	Gabriel Mato
Substitutes under Rule 209(7) present for the final vote	Erik Poulsen, Anne Sander

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

23	+
ECR	Ladislav Ilčić, Bert-Jan Ruissen
NI	Marc Tarabella
PPE	Maria da Graça Carvalho, Anja Haga, Niclas Herbst, Gabriel Mato, Francisco José Millán Mon, Anne Sander, Theodoros Zagorakis
Renew	Izaskun Bilbao Barandica, Asger Christensen, Erik Poulsen
S&D	Clara Aguilera, João Albuquerque, Pietro Bartolo, Isabel Carvalhais, Predrag Fred Matić
The Left	João Pimenta Lopes
Verts/ALE	Rosa D'Amato, Francisco Guerreiro, Ana Miranda, Caroline Roose

0	-

1	0
ID	France Jamet

Key to symbols:

+ : in favour

- : against

0 : abstention

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Amending Directive 2009/16/EC on port State control			
References	COM(2023)0271 – C9-0191/2023 – 2023/0165(COD)			
Date submitted to Parliament	1.6.2023			
Committee responsible Date announced in plenary	TRAN 10.7.2023			
Committees asked for opinions Date announced in plenary	BUDG 10.7.2023	EMPL 10.7.2023	ENVI 10.7.2023	PECH 10.7.2023
Not delivering opinions Date of decision	BUDG 28.6.2023	EMPL 29.6.2023	ENVI 17.7.2023	
Rapporteurs Date appointed	Vera Tax 13.7.2023			
Discussed in committee	9.10.2023			
Date adopted	7.12.2023			
Result of final vote	+: 34 –: 1 0: 4			
Members present for the final vote	José Ramón Bauzá Díaz, Izaskun Bilbao Barandica, Karolin Braunsberger-Reinhold, Marco Campomenosi, Jakop G. Dalunde, Karima Delli, Mario Furore, Isabel García Muñoz, Jens Gieseke, Bogusław Liberadzki, Peter Lundgren, Elżbieta Katarzyna Łukacijewska, Tilly Metz, Cláudia Monteiro de Aguiar, Caroline Nagtegaal, Tomasz Piotr Poręba, Bergur Løkke Rasmussen, Dominique Riquet, Thomas Rudner, Vera Tax, Barbara Thaler, István Ujhelyi, Achille Variati, Elissavet Vozemberg-Vrionidi, Lucia Vuolo, Kosma Złotowski			
Substitutes present for the final vote	Tom Berendsen, Sara Cerdas, Maria Grapini, Ondřej Kovařík, Ljudmila Novak, Dorien Rookmaker, Nicolae Ștefănuță, Kathleen Van Brempt			
Substitutes under Rule 209(7) present for the final vote	Andreas Glück, Erik Marquardt, Andżelika Anna Możdżanowska, Wolfram Pirchner, Eugen Tomac			
Date tabled	8.12.2023			

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

34	+
ID	Marco Campomenosi
NI	Mario Furore
PPE	Tom Berendsen, Karolin Braunsberger-Reinhold, Jens Gieseke, Elżbieta Katarzyna Łukacijewska, Cláudia Monteiro de Aguiar, Ljudmila Novak, Wolfram Pirchner, Barbara Thaler, Eugen Tomac, Elissavet Vozemberg-Vrionidi, Lucia Vuolo
Renew	José Ramón Bauzá Díaz, Izaskun Bilbao Barandica, Andreas Glück, Ondřej Kovářik, Caroline Nagtegaal, Bergur Løkke Rasmussen, Dominique Riquet
S&D	Sara Cerdas, Isabel García Muñoz, Maria Grapini, Bogusław Liberadzki, Thomas Rudner, Vera Tax, István Ujhelyi, Kathleen Van Brempt, Achille Variati
Verts/ALE	Jakop G. Dalunde, Karima Delli, Erik Marquardt, Tilly Metz, Nicolae Ștefănuță

1	-
ECR	Dorien Rookmaker

4	0
ECR	Peter Lundgren, Andżelika Anna Mozdżanowska, Tomasz Piotr Poręba, Kosma Złotowski

Key to symbols:

+ : in favour

- : against

0 : abstention