

Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (Recast) (Text with EEA relevance)

Article 2

Definitions

For the purposes of this Directive the following definitions shall apply:

1. ‘Conventions’ means the following Conventions, with the Protocols and amendments thereto, and related codes of mandatory status, in their up-to-date version:
 - (a) the International Convention on Load Lines, 1966 (LL 66);
 - (b) the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
 - (c) the International Convention for the Prevention of Pollution from Ships, 1973, and the 1978 Protocol relating thereto (Marpol 73/78);
 - (d) the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 78/95);
 - (e) the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (Colreg 72);
 - (f) the International Convention on Tonnage Measurement of Ships, 1969 (ITC 69);
 - (g) [^{F1}]
 - (h) the International Convention on Civil Liability for Oil Pollution Damage, 1992 (CLC 92)[^{F2}];
 - (i) [^{F3}the Maritime Labour Convention, 2006 (MLC 2006);
 - (j) the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001 (AFS 2001);
 - (k) the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention, 2001).]
2. ‘Paris MOU’ means the Memorandum of Understanding on Port State Control, signed in Paris on 26 January 1982, in its up-to-date version.
3. ‘Framework and procedures for the Voluntary IMO Member State Audit Scheme’ means IMO Assembly Resolution A.974(24).
4. ‘Paris MOU region’ means the geographical area in which the signatories to the Paris MOU conduct inspections in the context of the Paris MOU.
5. ‘Ship’ means any seagoing vessel to which one or more of the Conventions apply, flying a flag other than that of the port State.
6. ‘Ship/port interface’ means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons or goods or the provision of port services to or from the ship.

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7. 'Ship at anchorage' means a ship in a port or another area within the jurisdiction of a port, but not at berth, carrying out a ship/port interface.
8. 'Inspector' means a public-sector employee or other person, duly authorised by the competent authority of a Member State to carry out port-State control inspections, and responsible to that competent authority.
9. 'Competent authority' means a maritime authority responsible for port State control in accordance with this Directive.
10. 'Night time' means any period of not less than seven hours, as defined by national law, and which must include, in any case, the period between midnight and 5.00.
11. 'Initial inspection' means a visit on board a ship by an inspector, in order to check compliance with the relevant Conventions and regulations and including at least the checks required by Article 13(1).
12. 'More detailed inspection' means an inspection where the ship, its equipment and crew as a whole or, as appropriate, parts thereof are subjected, in the circumstances specified in Article 13(3), to an in-depth examination covering the ship's construction, equipment, manning, living and working conditions and compliance with on-board operational procedures.
13. 'Expanded inspection' means an inspection, which covers at least the items listed in Annex VII. An expanded inspection may include a more detailed inspection whenever there are clear grounds in accordance with Article 13(3).
14. 'Complaint' means any information or report submitted by any person or organisation with a legitimate interest in the safety of the ship, including an interest in safety or health hazards to its crew, on-board living and working conditions and the prevention of pollution.
15. 'Detention' means the formal prohibition for a ship to proceed to sea due to established deficiencies which, individually or together, make the ship unseaworthy.
16. 'Refusal of access order' means a decision issued to the master of a ship, to the company responsible for the ship and to the flag State notifying them that the ship will be refused access to all ports and anchorages of the Community.
17. 'Stoppage of an operation' means a formal prohibition for a ship to continue an operation due to established deficiencies which, individually or together, would render the continued operation hazardous.
18. 'Company' means the owner of the ship or any other organisation or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the International Safety Management (ISM) Code.
19. 'Recognised Organisation' means a classification company or other private body, carrying out statutory tasks on behalf of a flag State administration.
20. 'Statutory certificate' means a certificate issued by or on behalf of a flag State in accordance with Conventions.
21. 'Classification certificate' means a document confirming compliance with SOLAS 74, Chapter II-1, Part A-1, Regulation 3-1.

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22. ‘Inspection database’ means the information system contributing to the implementation of the port State control system within the Community and concerning the data related to inspections carried out in the Community and the Paris MOU region.
23. [^{F3}‘Maritime labour certificate’ means the certificate referred to in Regulation 5.1.3 of MLC 2006.]
24. ‘Declaration of maritime labour compliance’ means the declaration referred to in Regulation 5.1.3 of MLC 2006.]
25. [^{F4}‘ro-ro passenger ship’ means a ship with facilities to enable road or rail vehicles to roll on and roll off the vessel, and carrying more than 12 passengers.]
26. ‘high-speed passenger craft’ means a craft as defined in Regulation 1 of Chapter X of SOLAS 74, and carrying more than 12 passengers.
27. ‘regular service’ means a series of ro-ro passenger ship or high-speed passenger craft crossings operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls, either:
- (i) according to a published timetable; or
 - (ii) with crossings so regular or frequent that they constitute a recognisable systematic series.]

[^{F3}All the references in this Directive to the Conventions, international codes and resolutions, including for certificates and other documents, shall be deemed to be references to those Conventions, international codes and resolutions in their up-to-date versions.]

Textual Amendments

- F1** Deleted by Directive 2013/38/EU of the European Parliament and of the Council of 12 August 2013 amending Directive 2009/16/EC on port State control (Text with EEA relevance).
- F2** Substituted by Directive 2013/38/EU of the European Parliament and of the Council of 12 August 2013 amending Directive 2009/16/EC on port State control (Text with EEA relevance).
- F3** Inserted by Directive 2013/38/EU of the European Parliament and of the Council of 12 August 2013 amending Directive 2009/16/EC on port State control (Text with EEA relevance).
- F4** Inserted by Directive (EU) 2017/2110 of the European Parliament and of the Council 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 (Text with EEA relevance).