



CRNA GORA
SKUPŠTINA CRNE GORE

PRIMLJENO:	12-V 20 15 GOD.
KLASIFIKACIONI BROJ:	14-4/15-2
VEZA:	
EPA:	834 XXV
SKRAĆENICA:	PRILOG:

Crna Gora
VLADA CRNE GORE
Broj: 08-622
Podgorica, 21. april 2015. godine

PREDSJEDNIKU SKUPŠTINE CRNE GORE

PODGORICA

Vlada Crne Gore, na sjednici od 2. aprila 2015. godine, utvrdila je **PREDLOG ZAKONA O POTVRĐIVANJU PARIŠKOG MEMORANDUMA O RAZUMIJEVANJU O KONTROLI DRŽAVE LUKE**, koji Vam u prilogu dostavljamo radi stavljanja u proceduru Skupštine Crne Gore.

Za predstavnike Vlade koji će učestvovati u radu Skupštine i njenih radnih tijela, prilikom razmatranja Predloga ovog zakona, određeni su dr **IVAN BRAJOVIĆ**, ministar saobraćaja i pomorstva i **VLADAN RADONJIĆ**, v.d. generalnog direktora Direktorata za pomorski saobraćaj.

PREDSJEDNIK

Milo Đukanović, s.r.

ZAKON

O POTVRĐIVANJU PARIŠKOG MEMORANDUMA O RAZUMIJEVANJU O KONTROLI DRŽAVE LUKE

Član 1

Potvrđuje se Pariški memorandum o razumijevanju o kontroli države luke, sačinjen januara 1982. godine, u originalu na engleskom jeziku.

Član 2

Tekst Memoranduma iz člana 1 ovog zakona, u originalu na engleskom i crnogorskom jeziku glasi:

PARIS MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL

The Maritime Authorities of

Belgium
Bulgaria ¹⁾
Canada ²⁾
Croatia ³⁾
Cyprus ⁴⁾
Denmark
Estonia ⁵⁾
Finland
France
Germany (Federal Republic of)
Greece
Iceland ⁶⁾
Ireland
Italy
Latvia ⁷⁾
Lithuania ⁸⁾
Malta ⁹⁾
Netherlands
Norway
Poland ¹⁰⁾
Portugal
Romania ¹¹⁾
Russian Federation ¹²⁾
Slovenia ¹³⁾
Spain
Sweden
United Kingdom of Great Britain and Northern Ireland

hereinafter referred to as 'the Authorities'

¹⁾ The Maritime Authority of Bulgaria adhered to the Memorandum on 10 May 2007; for the Maritime Authority of Bulgaria the Memorandum took effect on 1 July 2007.

- 2) The Maritime Authority of Canada adhered to the Memorandum on 3 May 1994; for the Maritime Authority of Canada the Memorandum took effect on 3 May 1994.
- 3) The Maritime Authority of Croatia adhered to the Memorandum on 8 November 1996; for the Maritime Authority of Croatia the Memorandum took effect on 1 January 1997.
- 4) The Maritime Authority of Cyprus adhered to the Memorandum on 12 May 2006; for the Maritime Authority of Cyprus the Memorandum took effect on 1 July 2006.
- 5) The Maritime Authority of Estonia adhered to the Memorandum on 12 May 2005; for the Maritime Authority of Estonia the Memorandum took effect on 1 July 2005.
- 6) The Maritime Authority of Iceland adhered to the Memorandum on 11 May 2000; for the Maritime Authority of Iceland the Memorandum took effect on 1 July 2000.
- 7) The Maritime Authority of Latvia adhered to the Memorandum on 12 May 2005; for the Maritime Authority of Latvia the Memorandum took effect on 1 July 2005.
- 8) The Maritime Authority of Lithuania adhered to the Memorandum on 12 May 2006; for the Maritime Authority of Lithuania the Memorandum took effect on 1 July 2006.
- 9) The Maritime Authority of Malta adhered to the Memorandum on 12 May 2006; for the Maritime Authority of Malta the Memorandum took effect on 1 July 2006.
- 10) The Maritime Authority of Poland adhered to the Memorandum on 27 November 1991; for the Maritime Authority of Poland the Memorandum took effect on 1 January 1992.
- 11) The Maritime Authority of Romania adhered to the Memorandum on 10 May 2007; for the Maritime Authority of Romania the Memorandum took effect on 1 July 2007.
- 12) The Maritime Authority of the Russian Federation adhered to the Memorandum on 10 November 1995; for the Maritime Authority of the Russian Federation the Memorandum took effect on 1 January 1996
- 13) The Maritime Authority of Slovenia adhered to the Memorandum on 15 May 2003; for the Maritime Authority of Slovenia the Memorandum took effect on 22 July 2003.

Recalling the Final Declaration adopted on 2 December 1980 by the Regional European Conference on Maritime Safety which underlined the need to increase maritime safety and the protection of the marine environment and the importance of improving living and working conditions on board ship;

Noting with appreciation the progress achieved in these fields by the International Maritime Organization and the International Labour Organization;

Noting also the contribution of the European Union towards meeting the above mentioned objectives;

Mindful that the principal responsibility for the effective application of standards laid down in international instruments rests upon the authorities of the State whose flag a ship is entitled to fly;

Recognizing nevertheless that effective action by port States is required to prevent the operation of substandard ships;

Recognizing also the need to avoid distorting competition between ports;

Convinced of the necessity, for these purposes, of an improved and harmonized system of port State control and of strengthening co-operation and the exchange of information; have reached the following understanding:

Section 1 Commitments

- 1.1 Each Authority will give effect to the provisions of the present Memorandum and the Annexes thereto.
- 1.2 Each Authority will maintain an effective system of port State control with a view to ensuring that, without discrimination as to flag, foreign merchant ships calling at a port of its State, or anchored off such a port, comply with the standards laid down in the relevant instruments listed in Section 2.
- 1.3 Each Authority will carry out an inspection on every foreign merchant ship of Priority I calling at one of its ports or anchorages, subject to the flexibility and regional commitment as described in Annex 11. Each Authority will carry out a total number of inspections of foreign merchant ships of Priority I and Priority II which corresponds at least to its annual inspection commitment determined in accordance with Annex 11. Authorities should refrain from selecting Priority II periodic inspections when these are not required in order to meet their annual commitment.
- 1.4 Each Authority will consult, cooperate and exchange information with the other Authorities in order to further the aims of the Memorandum.
- 1.5 Each Authority, or any other body, as the case may be, will establish an appropriate procedure for pilot services, including those engaged on ships bound for a port or in transit within its State, and port authorities to immediately inform the 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 safety of the ship, or which may pose a threat of harm to the marine environment.
- 1.6 In fulfilling their commitments the Authorities will carry out inspections of the type specified in Annex 9.
- 1.7 Nothing in the Memorandum will be construed as restricting the powers of the Authorities to take measures within its jurisdiction in respect of any matter to which the relevant instruments relate.

Section 2 Relevant instruments

- 2.1 For the purposes of the Memorandum 'relevant instruments' are the following:
 - .1 the International Convention on Load Lines, 1966 (LOAD LINES 66);
 - .2 the Protocol of 1988 relating to the International Convention on Load Lines, 1966 (LL PROT 88);
 - .3 the International Convention for the Safety of Life at Sea, 1974 (SOLAS);
 - .4 the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974 (SOLAS PROT 78);
 - .5 the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974 (SOLAS PROT 88);
 - .6 International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, and as further amended by the Protocol of 1997 (MARPOL);
 - .7 the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 78);
 - .8 the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREG 72);
 - .9 the International Convention on Tonnage Measurement of Ships, 1969 (TONNAGE 69);

- .10 the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147) (ILO 147);
- .11 the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147) (ILO P147)
- .12 the Maritime Labour Convention, 2006 (MLC, 2006);
- .13 the International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC1969);
- .14 Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC PROT 1992);
- .15 International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001 (AFS2001);
- .16 the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001;
- .17 the International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWM).

2.2 With respect to the ILO conventions (including MLC, 2006) in Section 2.1, each Authority will apply the procedures referred to in Annex 2.

2.3 Each Authority will apply those relevant instruments which are in force and to which its State is a Party. In the case of amendments to a relevant instrument each Authority will apply those amendments which are in force and which its State has accepted. An instrument so amended will then be deemed to be the 'relevant instrument' for that Authority.

2.4 In applying a relevant instrument, the Authorities will ensure that no more favorable treatment is given to ships of non-Parties and apply the procedures specified in Annex 1. In the case of ships below convention size the Authorities will apply the procedures in Annex 1.

Section 3

Reporting, Ship Risk Profile, Selection, Inspection and Detention

3.1 Each ship has to follow the reporting requirements according to Annex 12.

3.2 Each ship in the information system will be attributed a ship risk profile, in accordance with Annex 7, which will determine its priority for inspection, the interval between its inspections and the scope of the inspection. In selecting ships for inspection the Authorities will determine their priority from the selection scheme indicated in Annex 8.

3.3 Inspections will be carried out by properly qualified and trained persons authorized for that purpose by the Authority concerned and acting under its responsibility, having regard in particular to Annex 6. When the required professional expertise cannot be provided by the Authority, the Port State Control Officer of that Authority may be assisted by any person with the required expertise. Port State Control Officers and the persons assisting them will have no commercial interest, either in the port of inspection or in the ships inspected, nor will Port State Control Officers be employed by or undertake work on behalf of non-governmental organizations which issue statutory and classification certificates or which carry out the surveys necessary for the issue of those certificates to ships. Each Port State Control Officer will carry a personal document in the form of an identity card issued by his Authority in accordance with the national legislation, indicating that the Port State Control Officer is authorized to carry out inspections.

3.4 Each Authority will endeavor to secure the rectification of all deficiencies detected. On the condition that all possible efforts have been made to rectify all deficiencies, other than those which are clearly hazardous to safety, health or the environment, the ship may be allowed to proceed to a port where any such deficiencies can be rectified. In the case of deficiencies which are clearly hazardous to safety, health or the environment, the Authority will, except as provided in 3.8, ensure that the hazard is removed before the ship is allowed to proceed to sea. For this purpose appropriate action will be taken, which may include detention or a formal prohibition of a ship to

continue an operation due to established deficiencies which, individually or together, would render the continued operation hazardous. In deciding on the appropriate action to be taken Port State Control Officers will be guided by a PSCC Instruction.

- 3.5** Where the ground for a detention is the result of accidental damage suffered on the ship's voyage to a port or during cargo operations, no detention order will be issued, provided that:
- .1 due account has been given to the requirements contained in Regulation I/11(c) of SOLAS regarding notification to the flag Administration, the nominated surveyor or the recognized organization responsible for issuing the relevant certificate;
 - .2 prior to entering a port or immediately after a damage has occurred, the master or ship owner has submitted to the port State control authority details on the circumstances of the accident and the damage suffered and information about the required notification of the flag Administration;
 - .3 appropriate remedial action, to the satisfaction of the Authority, is being taken by the ship, and
 - .4 the Authority has ensured, having been notified of the completion of the remedial action, that deficiencies which were clearly hazardous to safety, health or the environment have been addressed to the satisfaction of the Authority.
- 3.6** In exceptional circumstances where, as a result of a more detailed inspection, the overall condition of a ship and its equipment, also taking the seafarers and their living and working conditions into account, is found to be obviously sub-standard, the Authority may suspend an inspection. The suspension of the inspection may continue until the responsible parties have taken the steps necessary to ensure that the ship complies with the requirements of the relevant instruments. Prior to suspending an inspection, the Authority must have recorded detainable deficiencies in several areas as set out in a PSCC Instruction. The notification of the detention to the responsible parties will state that the inspection is suspended until the Authority has been informed that the ship complies with all relevant requirements.
- 3.7** In the case of a detention, the Authority will immediately notify the flag Administration in writing and include the report of inspection. Likewise the recognized organization that has issued the relevant certificates on behalf of the flag Administration will be notified, where appropriate. The parties above will also be notified in writing of the release of detention.
In the case of a detention related to a non-compliance with the MLC, 2006, the Authority will also immediately notify the appropriate shipowners' and seafarers' organizations in the port State in which the inspection was carried out.
- 3.8** Where deficiencies which caused a detention as referred to in 3.4 cannot be remedied in the port of inspection, the Authority may allow the ship concerned to proceed to the nearest appropriate repair yard available (or in case of detainable deficiencies in accordance with MLC, 2006, to the port where the Rectification Action Plan is to be implemented) in accordance with a PSCC Instruction.

Where the decision to send a ship to a repair yard is due to a lack of compliance with the IMO Resolution A. 744(18), either with respect to ship's documentation or with respect to ship's structural failures and deficiencies, the Authority may require that the necessary thickness measurements are carried out in the port of detention as set out in PSCC Instructions before the ship is allowed to sail.

If the vessel is detained because it is not equipped with a functioning voyage data recorder system, when its use is compulsory, and this deficiency cannot be readily rectified in the port of detention, the authority may allow the ship to proceed to the appropriate repair yard or port nearest to the port of the detention where it shall be readily rectified or require that the deficiency is rectified within a maximum period of 30 days.

- 3.9 The provisions of 3.7 and 3.8 are without prejudice to the requirements of relevant instruments or procedures established by international organizations concerning notification and reporting procedures related to port State control.
- 3.10 The Authorities will ensure that, on the conclusion of an inspection, the master of the ship is provided with a report of inspection, giving the results of the inspection and details of any action to be taken.
- 3.11 Should any inspection referred to in Section 1.3 confirm or reveal deficiencies in relation to the requirements of a relevant instrument warranting the detention of a ship, all costs relating to the inspections in any normal accounting period should be covered by the ship owner or the operator or by his representative in the port State. All costs relating to inspections carried out by the Authority under the provisions of Section 4 will be charged to the owner or the operator of the ship. The detention will not be lifted until full payment has been made or a sufficient guarantee has been given for the reimbursement of the costs subject to national law.
- 3.12 The owner or the operator of a ship or his representative in the State concerned will have a right of appeal against a detention decision or refusal of access taken by the Authority of that State. An appeal will not cause the detention or refusal of access to be suspended. The Authority will properly inform the master of a ship of the right of appeal.
- *) Refer to MSC/Circ, 781 and MEPC 6/Circ 2 "National contact points of Members for safety and pollution prevention" (annexes 1 and 2). When a valid contact point is not available the nearest diplomatic representative should be informed.
- 3.13 When exercising control under the Memorandum, the Authorities will make all possible efforts to avoid unduly detaining or delaying a ship. Nothing in the Memorandum affects rights created by provisions of relevant instruments relating to compensation for undue detention or delay. In any instance of alleged undue detention or delay the burden of proof lies with the owner or operator of the ship.

Section 4 Banning

4.1 Refusal of access of ships following multiple detentions

- .1 Each Authority is recommended to ensure that a foreign merchant ship is refused access to its ports and anchorages if it:

flies the flag of a State appearing in the grey list as published in the annual report of the MoU and has been detained or has been issued with a prevention of operation order under the system of mandatory surveys for the safe operation of regular ro-ro ferry and high speed passenger craft services more than twice in the course of the preceding 24 months in a port or anchorage within the region of the Memorandum, or;

flies the flag of a State appearing in the black list as published in the annual report of the MoU and has been detained or has been issued with a prevention of operation order under the system of mandatory surveys for the safe operation of regular ro-ro ferry and high speed passenger craft services more than twice in the course of the preceding 36 months in a port or anchorage within the region of the Memorandum,

- .2 The refusal of access following multiple detentions will become applicable as soon as the ship leaves the port or anchorage.
- .3 The refusal of access order shall be lifted after a period of three months has

passed from the date of issue of the order and when the conditions in a PSCC Instruction are met.

If the ship is subject to a second refusal of access, the period shall be 12 months

- .4 Any subsequent detention in a port or anchorage shall result in the ship being refused access to any port or anchorage. 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:
- the ship flies the flag of a State whose detention rate falls neither into the black list nor the grey list,
 - the statutory and classification certificates of the ship are issued by a organization or organizations which are recognized by one or more of the Paris MoU Member States as listed in Annex 7,
 - the ship is managed by a company with a high performance, • and the conditions set in a PSCC Instruction are met.

Any ship not meeting the criteria as specified above after a period of 24 months has passed from the issue of the order, shall be permanently refused access to any port and anchorage.

- .5 Any subsequent detention in a port or anchorage after the third refusal of access shall result in the ship being permanently refused access to any port or anchorage.

- .6 Before denying entry, the Authority may request consultations with the Administration of the ship concerned.

4.2 Refusal of access of ship following other occurrences

- .1 a foreign ship referred to in Section 3.4 and Section 3.8 which proceeds to sea without complying with the conditions determined by the Authority in the port of inspection; or
- .2 a foreign ship referred to in Section 3.8 which refuses to comply with the applicable requirements of the relevant instruments by not calling into the indicated repair yard.

- 4.3** For compliance of 4.1 and 4.2 each authority will ensure that the procedure set in a PSCC Instruction has been adhered to.

- 4.4** Notwithstanding the provisions of 4.1 and 4.2, access to a specific port may be permitted by the relevant authority of that port State in the event of force majeure or overriding safety considerations, or to reduce or minimize the risk of pollution, provided that adequate measures to the satisfaction of the authority of such State have been implemented by the owner, the operator or the master of the ship to ensure safe entry.

Section 5 Provision of information

- 5.1** Each Authority will report on its inspections under the Memorandum and their results, in accordance with the procedures specified in Annex 3.

- 5.2** The Secretariat on behalf of Paris MoU Member States will take the necessary measures in order to ensure that information listed in Annex 4 is published at the intervals prescribed therein subject for compliance with data access policy agreed by the Committee. Information provided in accordance with 5.1 may be made available for publication in printed form or by electronic means in order to assist Authorities with the publications mentioned in Annex 4 as well as for other purposes in accordance with decisions of the Committee mentioned in Section 6.

- 5.3 The Secretariat, mentioned in Section 7.4 may facilitate the publication of data in any electronic or printed format derived unaltered from the information system mentioned in Annex 3.
- 5.4 When inspection or detention data contain information concerning private persons the Authorities undertake to ensure protection of the privacy of those persons in accordance with applicable laws and regulations. This protection shall however not prevent the publication of the company of ships inspected or publication of the names of charterers involved.

Section 6 Operational violations

The Authorities will upon the request of another Authority, endeavor to secure evidence relating to suspected violations of the requirements on operational matters of Rule 10 of COLREG 72 and MARPOL. In the case of suspected violations involving the discharge of harmful substances, an Authority will, upon the request of another Authority, visit in port the ship suspected of such a violation in order to obtain information and where appropriate to take a sample of any alleged pollutant. Procedures for investigations into contravention of discharge provisions are listed in a PSCC Instruction.

Section 7 Organization

- 7.1 A Committee will be established, composed of a representative of each of the Authorities and of the Commission of the European Communities. An advisor from each of the International Governmental Organizations, Observers and Associates will be invited to participate in the work of the Committee and any other meetings.
- 7.2 The Committee will meet once a year and at such other times as it may decide.
- 7.3 The Committee will:
- .1 carry out the specific tasks assigned to it under the Memorandum;
 - .2 promote by all means necessary, including seminars for Port State Control Officers, the harmonization of procedures and practices relating to the inspection, rectification, detention, banning and the application of Section 2.4;
 - .3 develop and review guidelines and procedures for carrying out inspections under the Memorandum;
 - .4 develop and review procedures for the exchange of information;
 - .5 keep under review other matters relating to the operation and the effectiveness of the Memorandum;
 - .6 elect the chairman and vice-chairman of the Port State Control Committee from the Authorities;
 - .7 establish a MoU Advisory Board to assist the Port State Control Committee in focusing on key issues, and in particular to direct the MoU Secretariat between Port State Control Committee meetings;
 - .8 develop and approve PSCC Instructions.
- 7.4 A secretariat provided by the Netherlands' Ministry of Infrastructure and the Environment will be set up and will have its office in The Hague.
- 7.5 The secretariat, acting under the guidance of the Committee and within the limits of the resources made available to it, will:
- .1 prepare meetings, circulate papers and provide such assistance as may be required to enable the Committee to carry out its functions;
 - .2 facilitate the exchange of information, carry out the procedures outlined in Annex 3 and 4 and prepare reports as may be necessary for the purposes of the Memorandum;

- .3 carry out such other work as may be necessary to ensure the effective operation of the Memorandum.

Section 8 Amendments

- 8.1** Any Authority may propose amendments to the Memorandum.
- 8.2** In the case of proposed amendments to sections of the Memorandum the following procedure will apply:
- .1 the proposed amendment will be submitted through the secretariat for consideration by the Committee;
 - .2 amendments will be adopted by a two-thirds majority of the representatives of the Authorities present and voting in the Committee. If so adopted an amendment will be communicated by the secretariat to the Authorities for acceptance;
 - .3 an amendment will be deemed to have been accepted either at the end of a period of six months after adoption by the representatives of the Authorities in the Committee or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption, unless within the relevant period an objection is communicated to the secretariat by an Authority;
 - .4 an amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee.
- 8.3** In the case of proposed amendments to Annexes of the Memorandum the following procedure will apply:
- .1 the proposed amendment will be submitted through the secretariat for consideration by the Authorities;
 - .2 the amendment will be deemed to have been accepted at the end of a period of three months from the date on which it has been communicated by the secretariat unless an Authority requests in writing that the amendment should be considered by the Committee. In the latter case the procedure specified in 8.2 will apply;
 - .3 the amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the Authorities.

Section 9 Administrative Provisions

- 9.1** The Memorandum is without prejudice to rights and obligations under any international Agreement or relevant national legislation.
- 9.2** A Maritime Authority of a European coastal State and a coastal State of the North Atlantic basin from North America to Europe, which complies with the criteria specified in Annex 5, may adhere to the Memorandum with the consent of all Authorities participating in the Memorandum.
- 9.3** When the Memorandum takes effect, it will supersede the 'Memorandum of Understanding between Certain Maritime Authorities on the Maintenance of Standards on Merchant Ships', signed at The Hague on 2 March 1978.
- 9.4** The Memorandum will take effect on 1 July 1982.
- 9.5** The English and French versions of the text of the Memorandum are equally authentic. Signed at Paris in the English and French languages, this twenty-sixth day of January one thousand nine hundred and eighty-two.

ANNEXES TO MEMORANDUM

- Annex 1 Ships of non-Parties and below convention size
- Annex 2 Maritime Labour Convention, 2006 (MLC, 2006) or Merchant Shipping (Minimum Standards) Convention, 1976 (ILO 147) and ILO147 Protocol, 1996, if applicable
- Annex 3 Information System on Inspections
- Annex 4 Publication of Information Related to Detentions and Inspections
- Annex 5 Qualitative Criteria for Adherence to the Memorandum
- Annex 6 Minimum Criteria for Port State Control Officers
- Annex 7 Ship Risk Profile
- Annex 8 Inspection and Selection Scheme
- Annex 9 Inspection Type and Clear Grounds
- Annex 10 Examination of certificates and documents
- Annex 11 Inspection Commitments of Authorities
- Annex 12 Reporting obligations for ships

ANNEX 1
Ships of non-Parties and below convention size

1 Ships of non-Parties

Ships entitled to fly the flag of a State which is not a Party to a relevant instrument and thus not provided with certificates representing *prima facie* evidence of satisfactory conditions on board, or manned with crew members who do not hold valid STCW certificates, will receive a more detailed or, as appropriate, expanded inspection. In making such an inspection the Port State Control Officer will follow the same procedures as provided for ships to which the relevant instruments are applicable. If the ship or the crew has some alternative form of certification, the Port State Control Officer, in making this inspection, may take the form and content of this documentation into account. The conditions of such a ship and its equipment and the certification of the crew and the flag Administration's minimum manning standard must be compatible with the aims of the provisions of the relevant instruments; otherwise the ship must be subject to such restrictions as are necessary to obtain a comparable level of safety and protection of the marine environment.

2 Ships below convention size.

2.1 To the extent a relevant instrument is not applicable to a ship below convention size, the Port State Control Officer's task will be to assess whether the ship is of an acceptable standard in regard to safety, health or the environment. In making that assessment, the Port State Control Officer will take due account of such factors as the length and nature of the intended voyage or service, the size and type of the ship, the equipment provided and the nature of the cargo.

2.2 In the exercise of his functions the Port State Control Officer will be guided by any certificates and other documents issued by or on behalf of the flag State Administration. The Port State Control Officer will, in the light of such certificates and documents and in his general impression of the ship, use his professional judgment in deciding whether and in what respects the ship will be further inspected. When carrying out a further inspection the Port State Control Officer will, to the extent necessary, pay attention to the items listed in 3 of this Annex. The list is not considered exhaustive but is intended to give an exemplification of relevant items.

3 Items of general importance

3.1 Items related to the conditions of assignment of load lines:

- .1 weather tight (or watertight as the case may be) integrity of exposed decks;
- .2 hatches and closing appliances;
- .3 weather tight closures to openings in superstructures;
- .4 freeing arrangements;
- .5 side outlets;
- .6 ventilators and air pipes;
- .7 stability information.

3.2 Other items related to the safety of life at sea:

- .1 life saving appliances;
- .2 fire fighting appliances;
- .3 general structural conditions (i.e. hull, deck, hatch covers, etc.);
- .4 main machinery and electrical installations;
- .5 navigational equipment including radio installations.

3.3 Items related to the prevention of pollution from ships:

- .1 means for the control of discharge of oil and oily mixtures e.g. oily water separating or filtering equipment or other equivalent means (tank(s) for retaining oil, oily mixtures, oil residues);
- .2 means for the disposal of oil, oily mixtures or oil residues;

.3 presence of oil in the engine room bilges;

.4 means for the collection, storage and disposal of garbage.

- 3.4** In the case of deficiencies which are considered hazardous to safety, health or the environment the Port State Control Officer will take such action, which may include detention as may be necessary, having regard to the factors mentioned in 2.1 of this Annex, to ensure that the deficiency is rectified or that the ship, if allowed to proceed to another port, does not present a clear hazard to safety, health or the environment.

ANNEX 2

Maritime Labour Convention, 2006 (MLC, 2006) or Merchant Shipping (Minimum Standards) Convention, 1976 (ILO 147) and ILO 147 Protocol, 1996, if applicable.

1 Maritime Labour Convention, 2006 (MLC, 2006), if applicable.

- 1.1 Inspection regarding certificates of competency is dealt with in a PSCC Instruction. In the exercise of control of the MLC, 2006, the Port State Control Officer (PSCO) will decide, on the basis of the clear grounds listed in Annex 9 and his/her professional judgement, whether the ship will receive a more detailed inspection. All complaints not manifestly unfounded regarding conditions on board will be investigated thoroughly and action taken as deemed necessary. The PSCO will also use his/her professional judgement to determine whether the conditions on board give rise to a hazard to the safety or health of the seafarers which necessitates the rectification of conditions and may, if necessary, detain the ship until appropriate corrective action is taken. Reporting procedures for detentions are provided in Annex 4.

Implementation of PSC procedures which are specific to MLC, 2006, are set out in a PSCC Instruction.

2. Merchant Shipping (Minimum Standards) Convention, 1976 (ILO 147) and ILO 147 Protocol, 1996, if applicable.

- 2.1 Inspections on board ships under ILO 147 and ILO Protocol 1996 will relate to:
- .1 the Minimum Age Convention, 1973 (No. 138); or the Minimum Age (Sea) Convention (Revised), 1936 (No. 58); or the Minimum Age (Sea) Convention, 1920 (No. 7);
 - .2 the Medical Examination (Seafarers) Convention, 1946 (No. 73);
 - .3 the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) (Articles 4 and 7);
 - .4 the Accommodation of Crews Convention (Revised), 1949 (No. 92);
 - .5 the Food and Catering (Ships' Crews) Convention, 1946 (No. 68) (Article 5);
 - .6 the Accommodation and Crews (Supplementary Provisions) Convention, 1970 (No. 133);
 - .7 the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180);
 - .8 the Officers' Competency Certificates Convention, 1936 (No. 53) (Articles 3 and 4).

Inspection regarding certificates of competency is dealt with in a PSCC Instruction. In the exercise of control of the conventions listed in .1 to .7 above, the Port State Control Officer will decide, on the basis of the clear grounds listed in Annex 9 and his professional judgment, whether the ship will receive a more detailed inspection. All complaints regarding conditions on board will be investigated thoroughly and action taken as deemed necessary. He will also use his professional judgment to determine whether the conditions on board give rise to a hazard to the safety or health of the seafarers which necessitates the rectification of conditions and may, if necessary, detain the ship until appropriate corrective action is taken. Reporting procedures for detentions are provided in Annex 4.

2.2 The conventions relevant in the framework of the provisions of 2.3 of this Annex are:

- .1 the Seamen's Articles of Agreement Convention, 1926 (no. 22);
- .2 the Repatriation of Seamen Convention, 1926 (no. 23);
- .3 the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (no.55); or the Sickness Insurance (Sea) Convention, 1936 (no. 56); or the Medical Care and Sickness Benefits Convention, 1969 (no. 130);
- .4 the Freedom of Association and Protection of the Right to Organise Convention, 1948 (no. 87);
- .5 the Right to Organise and Collective Bargaining Convention, 1949 (no. 98);
- .6 the Seafarers' Identity Documents Convention, 1958 (no. 108);
- .7 the Workers' Representatives Convention, 1971 (no. 135);
- .8 the Health Protection and Medical Care (Seafarers) Convention, 1987 (no. 164);
- .9 the Repatriation of Seafarers Convention (Revised), 1987, (no. 166).

2.3 If the Port State Control Officer receives a report, notification or complaint to the effect that the standards laid down in the conventions listed in 2.2 of this Annex are not met, the matter will be reported by the Authority, if possible with evidence, to the flag Administration for further action, with a copy to the ILO.

2.4 Those parts of the ILO publication "Inspection of Labour Conditions on board Ship: Guide-lines for procedure" which deal with:

- .1 control procedures for national flag ships;
- .2 vocational training;
- .3 officers' certificates of competency (regulated under STCW78);
- .4 hours of work and manning (regulated under ILO180/STCW78);

are not considered as relevant provisions for the inspection of ships but as information to Port State control officers only.

ANNEX 3
Information System on Inspections

- 1 To assist Authorities in their selection of foreign flag ships to be inspected in their ports it is necessary to have at the disposal of Authorities up-to-date information on particulars, calls and inspections of an individual foreign flag ship in the region of the Memorandum.
- 2 The information system manager, as defined in the agreement, will manage the Information System in accordance with an agreement adopted by Committee. This agreement will contain all the details on standardized procedures, information exchange, data transmission, all information in the system and other relevant matters.
- 3 The information system will include the following functionalities:
 - Incorporate PSC inspection and port call data of Member States;
 - Provide data on the ship risk profile and inspection priority;
 - Calculate the inspection commitments for each Member State;
 - Produce data for the calculation of the white as well as the grey and black list of flag States and the performance table of the Recognized Organizations;
 - Calculate the performance of companies; • Identify the items in risk areas to be checked at each inspection;
 - Provide batch transfer (in and out) of PSC inspection and port call data to and from a Member State.
- 4 For that purpose the Authorities undertake to provide the information system manager, by means of computerized data transmission, with information on ships inspected in the national ports. The insertion of information into the inspection files will be realized by means of direct, computerized input on a daily basis.
- 5 For the purpose of exchanging rapid information, the information system will embrace a communication facility which allows for a direct, computerized exchange of messages between individual Authorities.
- 6 The information as in 4 and 5 above will be handled in a standardized form and in accordance with standardized procedures as set out in the guide for users of the information system developed by the information system manager and adopted by the Committee.
- 7 In handling the information the information system manager will not amend any data provided by the Authorities, except as provided for in standardized procedures ensuring the consistency of the use of certain action taken codes. Otherwise the information system manager will make amendments to data only on a specific written request of the originating Authority.
- 8 The information system manager will organize the processing of information as in paragraph 4 above so as to ensure that inspection data is easily accessible both for purposes of consultation and updating in accordance with procedures as set out in the guide for users of the information system provided by the information system manager as adopted by the Committee.
- 9 Information for administrative purpose, such as statistical information, will be provided by the Secretariat under the guidance of the Committee. This will be based on data provided by the information system manager.
- 10 The information system indicated in the foregoing paragraphs will be implemented as long as the Memorandum takes effect. The information system will be monitored and continuously improved.
- 11 With the consent of the Authority, the information system manager will, on behalf of that Authority, submit data as agreed by the Committee to the International Maritime Organization in accordance with Regulation I/19 of SOLAS, Article 11 of MARPOL, Article 21 of LOADLINES 66 and Article X of STCW 78.

- 12 With the consent of the Authority, the information system manager will, on behalf of that Authority, submit data as agreed by the Committee to the International Labour Organization in accordance with Standard A5.2.1 or Article 4 of ILO 147 if applicable.
- 13 With the consent of the Committee the secretariat may conclude data exchange contracts with other organisations. Upon conclusion of the contract and a technical feasibility study the information system manager will, on behalf of the Paris MoU exchange data to the other organisations.

ANNEX 4
Publication of Information Related to Detentions and Inspections
(As referred to in Section 5.2 of the Memorandum)

- 1 The PMoU website provides a point of access for the public to ship related information.

- 2 Information on ships detained will include the following and should be published at least every month:
 - a) name of the ship;
 - b) IMO identification number;
 - c) type of ship;
 - d) gross tonnage;
 - e) year of construction as determined on the basis of the date indicated in the ship's safety certificates;
 - f) name and address of the company of the ship;
 - g) in the case of ships carrying liquid or solid cargoes in bulk, the name and address of the charterer responsible for the selection of the vessel and the type of charter;
 - h) flag State;
 - i) the classification society or classification societies, where relevant, which has/have issued to this ship the class certificates including the date of issue and expiry, if any;
 - j) the recognized organization or organizations and/or any other party which has/have issued to this ship certificates in accordance with the applicable conventions on behalf of the flag Administration, stating the certificates delivered including the date of issue and expiry;
 - k) port and date of the last intermediate or annual survey for the certificates in point i) and j) above and the name of the authority or organization which carried out the survey;
 - l) date, country, port of detention;
 - m) number of detentions during the previous 36 months;
 - n) date when the detention was lifted;
 - o) duration of detention, in days;
 - p) the reasons for detention, in clear and explicit terms;
 - q) indication, where relevant, of whether the recognized organization that carried out the survey has a responsibility in relation to the deficiencies which, alone or in combination, led to detention;
 - r) description of the measures taken in the case of a ship which has been allowed to proceed to the nearest appropriate repair yard;
 - s) if the ship has been refused access to any port or anchorage within the Paris MoU, the reasons for the measure in clear and explicit terms.

- 3 Information concerning ships inspected will include the following:
 - a) name of the ship;
 - b) IMO identification number;
 - c) type of ship;
 - d) gross tonnage;
 - e) year of construction as determined on the basis of the date indicated in the ship's safety certificates;
 - f) name and address of the company of the ship;
 - g) in the case of ships carrying liquid or solid cargoes in bulk, the name and address of the charterer responsible for the selection of the vessel and the type of charter;
 - h) flag State;
 - i) the classification society or classification societies, where relevant, which has/have issued to this ship the class certificates including the date of issue and expiry, if any;
 - j) the recognized organization or organizations and/or any other party which has/have issued to this ship certificates in accordance with the applicable conventions on behalf of the flag Administration, stating the certificates delivered including the date of issue and expiry;
 - k) port and date of the last intermediate or annual survey for the certificates in point i) and j) above and the name of the authority or organization which carried out the survey;
 - l) date, country, port of inspection.

ANNEX 5
Qualitative Criteria for Adherence to the Memorandum

A Maritime Authority of a State, meeting the geographical criterion specified in 9.2 of the Memorandum, may adhere as a full member, provided that all of the following qualitative criteria have been met:

- 1** such Maritime Authority will explicitly subscribe to the commitments under the Memorandum, with a view to contributing to the common endeavor to eliminate the operation of sub-standard ships;
- 2** such Maritime Authority will have ratified all relevant instruments in force, before adherence shall be accomplished;
- 3** such Maritime Authority will have sufficient capacity, logistically and substantially, to appropriately enforce compliance with international maritime standards regarding maritime safety, pollution prevention and living and working conditions on board with regard to ships entitled to fly its flag, which will include the employment of properly qualified inspectors acting under the responsibility of its Administration, to be demonstrated to the satisfaction of the Committee referred to in 7.1 of the Memorandum;
- 4** such Maritime Authority will have sufficient capacity, logistically and substantially, to comply in full with all provisions and activities specified in the Memorandum in order to enhance its commitments, which will include the employment of properly qualified Port State Control Officers acting under the responsibility of its Administration, to be demonstrated to the satisfaction of the Committee referred to in 7.1 of the Memorandum;
- 5** a Maritime Authority, whose flag has appeared in the list of detentions exceeding the average detention percentage, as published in the annual report in any of three years immediately preceding its application for full membership, cannot be accepted as a full member of the Memorandum;
- 6** such Maritime Authority will, as of its effective date of membership, establish a connection to the information system referred to in Annex 3;
- 7** such Maritime Authority will sign a financial agreement for paying its share in the operating cost of the Memorandum and will, as of its effective date, pay its financial contribution to the budget as approved by the Committee referred to in 7.1 of the Memorandum.

Assessment of compliance with the above conditions will only be valid for each individual case and will not create a precedent for any future cases, neither for the Authorities present under the Memorandum, nor for the potential new signatory.

ANNEX 6
Minimum Criteria for Port State Control Officers

- 1 In pursuance of the provisions of 3.3 of the Memorandum, the Port State Control Officer must be properly qualified, trained and authorized by the Authority to carry out port State control inspections without prejudice to national provisions.
- 2 Officers must have appropriate theoretical knowledge and practical experience of ships and their operation. They must be competent in the enforcement of the requirements of Conventions and of the relevant port State control procedures. This knowledge and competence in enforcing requirements must be acquired through documented training programmes.
- 3 Officers must, as a minimum, have either:
 - a) appropriate qualifications from a marine or nautical institution and relevant seagoing experience as a certificated ship officer holding or having held a valid STCW II/2or III/2 certificate of competency not limited as regards the operating area or propulsion power or tonnage; or
 - b) passed an examination recognized by the Authority as a naval architect, mechanical engineer or an engineer related to the maritime fields and worked in that capacity for at least five years; or
 - c) a relevant university degree or equivalent and have properly trained and qualified as ship safety officers.
- 4 Officers must have:
 - completed a minimum of one year's service as a flag State inspector either dealing with surveys and certification in accordance with the Conventions or involved in the monitoring of the activities of recognized organizations to which statutory tasks have been delegated; or
 - gained an equivalent level of competence by following a minimum of one year's field training participating in Port State Control inspections under the guidance of experienced Port State Control Officers.
- 5 The officer mentioned under 3a) must have gained a maritime experience of at least 5 years including periods served at sea as officers in the deck- or engine-department respectively, or as a flag State inspector or as an assistant Port State Control Officer or have other adequate experience. Such experience shall include a period of at least two years at sea as a deck or engine officer.
- 6 The officer must have the ability to communicate orally and in writing with seafarers in the language most commonly spoken at sea.
- 7 Where in a Member State security inspections are performed by Port State Control Officers; those officers shall have appropriate qualifications, which shall include sufficient theoretical and practical experience in maritime security. This shall normally include:
 - a) a good understanding of maritime security and how it is applied to the operations being examined;
 - b) a good working knowledge of security technologies and techniques;
 - c) a knowledge of inspection principle, procedures and techniques;
 - d) a working knowledge of the operations being examined.
- 8 Port State Control Officers will be trained, and their competency assessed, in accordance with the harmonized scheme adopted by the Committee. Authorities will ensure that each of its Port State Control Officers is trained and assessed before authorizing them to take charge of inspections and periodically thereafter in accordance with the harmonized scheme.
- 9 In carrying out their duties Port State Control Officers will be guided by the "Code of Good Practice for PSCOs conducting inspections within the framework of the Paris MoU".

ANNEX 7 Ship Risk Profile

- 1 All ships in the information system are assigned either as high, standard or low risk based on generic and historic parameters.
- 2 Table 1 shows the criteria within each parameter for each ship risk profile.
- 3 Each criterion has a weighting which reflects the relative influence of each parameter on the overall risk of the ship.
- 4 High Risk Ships (HRS) are ships which meet criteria to a total value of 5 or more weighting points.
- 5 Low Risk Ships (LRS) are ships which meet all the criteria of the Low Risk Parameters and have had at least one inspection in the previous 36 months.
- 6 Standard Risk Ships (SRS) are ships which are neither HRS nor LRS.
- 7 A ship's risk profile is recalculated daily taking into account changes in the more dynamic parameters such as age, the 36 month history and company performance. Recalculation also occurs after every inspection and when the applicable performance tables for flag and R.O.s are changed.

Table 1: Ship Risk Profile

according to point 9 of this Annex
according to formula in the Annual Report
according to point 11 of this Annex
according to formula in the Annual Report
according to point 15 of this Annex

Parameters for Ship Risk Profile

Type of Ship

- 8 The ship type denomination is as per a list adopted by the Paris MoU Committee.

Age of Ship

- 9 The age of the ship is determined by the keel-laying date in dd/mm/yyyy format in the information system. A ship reaches more than 12 years on dd/mm/yyyy+12. If only the year of keel-laying is available in the information system then the ship reaches more than 12 years on 31/12/yyyy+12.

Black, Grey and White list

- 10 The Black, Grey and White list for flag State performance is established annually taking account of the inspection and detention history over the preceding three calendar years and is adopted by the Paris MoU Committee.

IMO Audit

- 11 To meet the criterion the flag States are invited to send to the Paris MoU Secretariat written confirmation that a final audit report including, where relevant, a corrective action plan has been drawn up in accordance with the "Framework and Procedures for the Voluntary IMO Member State Audit Scheme" (IMO Resolution A.974(24)).
- 12 The Paris MoU Secretariat will maintain on the Paris MoU public website an up-to-date list of flag States which meet the flag criteria for a low risk ship.

Recognized Organization Performance

- 13 The performance of all Recognized Organizations is established annually taking account of the inspection and detention history over the preceding three calendar years and is adopted by the Paris MoU Committee.
- 14 To qualify for the criterion recognized by the Paris MoU the organization must be recognized by one or more Paris MoU Member States. The list of recognized organizations is included in a PSCC Instruction.

Company Performance

- 15 Company performance takes account of the detention and deficiency history of all ships in a company's fleet while that company was the ISM company for the ship. Companies are ranked as having a "very low", "low", "medium" or "high" performance. The calculation is made daily on the basis of a running 36-month period. There is no lower limit for the number of inspections needed to qualify except a company with no inspections in the last 36 months will be given a "medium performance".
- 16 The formula consists of two elements, the deficiency index and the detention index.

Deficiency Index

- 17 When counting deficiencies each ISM related deficiency is weighted at 5 points. Other deficiencies are valued at 1 point.
- 18 The Deficiency Index is the ratio of the total points of all deficiencies of all ships in a company's fleet to the number of inspections of all ships in the company's fleet within the last 36 months.
- 19 This ratio is compared with the average for all ships inspected in the Paris MoU over the last 3 calendar years to determine whether the index is average, above average or below average as follows:

deficiency index	deficiency points per inspection
above average	> 2 above PMoU average
average	PMoU average \pm 2
below average	> 2 below PMoU average

Detention Index

- 20 The Detention Index is the ratio of the number of detentions all ships in a company's fleet to the number of inspections of all the ships in the company's fleet within the last 36 months.
- 21 This ratio is compared with the average for all ships inspected in the Paris MoU over the last 3 calendar years to determine whether the index is average, above average or below average as follows.

detention index	detention rate
above average	> 2 above PMoU average
average	PMoU average \pm 2%
below average	> 2 below PMoU average

- 22 If a Refusal of Access Order (banning) is issued within the last 36 months to any ship in the fleet the Detention Index of the company is automatically "above average" irrespective of all other inspection results.

Company Performance Matrix

- 23 Using the matrix in Table 2 below the combination of deficiency and detention indices determines the performance level.

Table 2: Company Performance Matrix

Detention	Index Deficiency Index	Company Performance
above average	above average	very low
above average above average average below average	average below average above average above average	low
average average below average	average below average average	medium
below average	below average	high

ANNEX 8
Inspection and Selection Scheme

- 1 Based on a ship's Risk Profile the Inspection and Selection Scheme determines the scope, frequency and priority of inspections.
- 2 Periodic Inspections are carried out at intervals determined by the ship risk profile.
- 3 Overriding or unexpected factors might trigger an inspection in between periodic inspections. This category of inspection is referred to as an Additional Inspection.
- 4 Ships become due for periodic inspection in the following time windows:

For HRS – between 5-6 months after the last inspection in the Paris MoU region.
For SRS – between 10-12 months after the last inspection in the Paris MoU region.
For LRS – between 24-36 months after the last inspection in the Paris MoU region.
- 5 Periodic Inspections and Additional Inspections count equally. Therefore the time span for the next periodic inspection re-starts after an additional inspection.
- 6 The selection scheme is divided into two priorities:

Priority I: ships must be inspected because either the time window has closed or there is an overriding factor

Priority II: ships may be inspected because they are within the time window or the port State considers an unexpected factor warrants an inspection
- 7 If a Priority II periodic inspection is not performed the ship remains Priority II until the time window closes and the ship becomes Priority I.
- 8 In the case of Unexpected Factors the need to undertake an additional inspection is left to the discretion of the Authority. If such a Priority II inspection is not performed it remains a Priority II ship if and when it arrives in another MoU port unless the Authority judges that any relevant information that it has received does not warrant being passed on.
- 9 The priority and the level of selection will be shown for each ship in the information system.
- 10 The category and type of inspection carried out is determined by the matrix in Table 3 below:

Table 3 Selection Scheme

Priority	Level	Category of inspection
I Ship must be inspected	Overriding factor	Additional
	HRS not inspected in last 6 months	Periodic
	SRS not inspected in last 12 months	Periodic
	Ship not inspected in last 36 months	Periodic
II Ship may be inspected	HRS not inspected in last 5 months	Periodic
	Ship with unexpected factors	Additional
	SRS not inspected in last 10 months	Periodic
	LRS not inspected in last 24 months	Periodic