DECISIONS

COUNCIL DECISION (EU) 2015/873

of 18 May 2015

on the position to be adopted, on behalf of the European Union, at the 48th session of the Port State Control Committee of the Paris Memorandum of Understanding on Port State Control

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

(1) Maritime safety, pollution prevention and on-board living and working conditions may be effectively enhanced through a drastic reduction of substandard ships in Union waters, by strictly applying relevant Conventions, international codes and resolutions.

(2) While the primary responsibility for monitoring the compliance of ships with the international standards for safety, pollution prevention and on-board living and working conditions lies with the flag State, responsibility for maintenance of the condition of the ship and its equipment after survey to comply with the requirements of Conventions applicable to the ship lies with the ship company. There has, however, been a serious failure on the part of a number of flag States to implement and enforce those international standards.

(3) Therefore, as a second line of defence against substandard shipping, the monitoring of compliance with the international standards for safety, pollution prevention and on-board living and working conditions should also be ensured by port States, while recognising that port State control inspection is not a survey and the relevant inspection forms are not seaworthiness certificates. A harmonised approach to the effective enforcement of those international standards by coastal Member States of the Union in respect of ships sailing in the waters under their jurisdiction and using their ports should avoid distortions of competition.

(4) Directive 2009/16/EC of the European Parliament and of the Council [1] sets out the Union regime on port State control, reformulating and reinforcing the previous Union legislation in this field in force since 1995. The Union regime is based on the pre-existing structure of the Paris Memorandum of Understanding on Port State Control (the 'Paris MOU'), signed in Paris on 26 January 1982.

(5) As regards Union Member States, Directive 2009/16/EC effectively brings certain procedures, tools and work of the Paris MOU within the scope of Union law. By virtue of Directive 2009/16/EC, certain decisions taken by the appropriate competent body of the Paris MOU become binding on Member States of the Union.

(6) The Port State Control Committee (PSCC) of the Paris MOU will hold its 48th session from 18 to 22 May 2015. During that session, the PSCC is expected to decide on certain issues which have direct legal effect on Directive 2009/16/EC.

(7) The PSCC is expected to consider and, subsequently, adopt the updated 2014 inspection statistics, including the new white, grey and black flag performance lists and the recognised organisations performance list which will be used for targeting purposes as from 1 July 2015. As the Paris MOU inspection statistics are essential for the implementation of the inspection regime established by Directive 2009/16/EC, the Member States, on behalf of the Union, should support their adoption.

[1] Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).

(8) The PSCC is also expected to consider and, subsequently, adopt the regional commitment and the fair share calculation in accordance with Annex 11 to the Paris MOU. Given the importance of the inspection commitment being shared in an equitable manner among Member States and that each Member State contributes fairly to the achievement of the Union objective as set out in Article 5 of Directive 2009/16/EC, the Member States, on behalf of the Union, should support those actions of the PSCC.

(9) The PSCC is also expected to confirm the average detention and deficiency ratios. Bearing in mind Commission Regulation (EU) No 802/2010 ([1]) and Commission Implementing Regulation (EU) No 1205/2012 ([2]), the Member States, on behalf of the Union, should support their adoption.

(10) Furthermore, the PSCC is expected to discuss the follow-up detention (FUD) forms and the procedures in the event of failure to recycle a vessel as agreed and to consider an amendment of the procedures and guidelines of the Paris MOU. Bearing in mind the importance of an effective, proportionate and dissuasive detention, access refusal and follow-up to inspection system under Articles 16, 19 and 21 of Directive 2009/16/EC, the Member States, on behalf of the Union, should oppose the proposal in point 2.6 of the amended guideline set out in Annex II to document PSCC48/4.3.8, which concerns a definitive and permanent ban on vessels, as opposed to a temporary ban, as that proposal is not in line with Directive 2009/16/EC.

(11) Pursuant to Article 218(9) of the Treaty on the Functioning of the European Union, the position to be adopted on behalf of the Union in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, is to be adopted by Council decision, on a proposal from the Commission.

(12) The Union is not a contracting party to the Paris MOU. It is therefore necessary for the Council to authorise the Member States to express the position to be adopted on behalf of the Union and express their consent to be bound by the decisions taken by the PSCC,

HAS ADOPTED THIS DECISION:

Article 1

The positions to be adopted on behalf of the Union at the 48th session of the PSCC of the Paris MOU when that body is called upon to adopt decisions having legal effects are set out in the Annex.

Article 2

The positions to be adopted on behalf of the Union as referred to in Article 1 shall be expressed by the Member States, which are bound by the Paris MOU, acting jointly in the interest of the Union.

Article 3

Formal and minor changes to the positions referred to in Article 1 may be agreed without requiring those positions to be amended.

Article 4

Member States are hereby authorised to give their consent to be bound, in the interest of the Union, by the decisions referred to in Article 1.

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

([2]) Commission Implementing Regulation (EU) No 1205/2012 of 14 December 2012 amending Regulation (EU) No 802/2010 as regards the company performance (OJ L 347, 15.12.2012, p. 10).

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 18 May 2015.

For the Council
The President
M. SEILE

ANNEX

The positions to be adopted, on behalf of the Union, at the 48th session of the Port State Control Committee of the Paris Memorandum of Understanding on Port State Control shall be to:

(a) endorse the actions proposed in document PSCC48/3.3 A, paragraph 9.1;

(b) endorse the actions proposed in document PSCC48/4.2.2B, paragraph 5.1;

(c) endorse the actions proposed in document PSCC48/4.2.2C, paragraph 6.1; and

(d) oppose the proposed amendment in point 2.6 of the amended guideline in document PSCC48/4.3.8.
