Port State Control - Paris MoU New Inspection Regime
23rd December 2010

Introduction

On the 1 January 2011 the Paris Memorandum of Understanding on Port State Control (Paris MoU) will implement European Union Directive 2009/16/EC throughout the EU by introducing a New Inspection Regime (NIR). The NIR will apply to all ships subject to the provisions of SOLAS, MARPOL, STCW and all other applicable international maritime conventions when visiting a port or anchorage within harbour limits of a Member State.

The NIR is a risk based mechanism which will replace the existing Target Factor system. It has been designed to reward quality shipping with a reduced inspection burden, whereas ships considered to be high risk will be subject to more frequent in-depth inspections.

Ship Risk Profile

Under NIR a vessel will be assigned a Ship Risk Profile which will classify it as being either a Low Risk Ship (LRS), a Standard Risk Ship (SRS) or a High Risk Ship (HRS). The Ship Risk Profile determines the inspection priority of the vessel, the time interval between inspections and their scope. A vessel’s Ship Risk Profile will be calculated using the following criteria based on its port state control inspection history in the Paris MOU region since the 17 June 2009. Once three years have elapsed, the vessel’s track record over the previous 36 months will be used;

- Type of ship
- Age of ship
- Performance of the ship’s flag state, including whether it is party to the Voluntary IMO Member State Audit Scheme (VIMSAS)
- Performance of the Recognised Organisation(s) and whether it is recognised by the EU
- Performance of the company responsible for the management of the vessel’s ISM Code system
- The number of inspections, deficiencies and detentions

The performance of the company responsible for the management of the vessel’s ISM Code system will be ranked as being High, Medium, Low or Very Low. This will be calculated using a formula based on the total number of Paris MOU detentions and deficiencies in the company’s fleet, compared with the Paris MoU average for all vessels during the same period. The names of companies with Low or Very Low performance will be placed in the public domain.

Members may estimate their own level of performance and the risk profiles of their vessels by using the Paris MOU’s Preliminary Company Performance Calculator and Ship Risk Profile Calculator respectively. Ship Risk Profiles will be recalculated daily, taking the latest inspection information into account.

Inspection Categories

Under the NIR there are two categories of inspection; Periodic and Additional. For the former, a time window will open after the vessel’s last inspection in the Paris MOU region, the frequency of which will vary according to the vessel’s Ship Risk Profile:
• High Risk Ships – time window between 5-6 months after the last inspection
• Standard Risk Ships – time window between 10-12 months after the last inspection
• Low Risk Ships – time window between 24-36 months after the last inspection

It a ship calls at a Paris MOU port within the time window, it will be classified as Priority II and may be selected for a Periodic inspection. However, if it arrives after the time window it will be classified as Priority I and must undergo a Periodic inspection before it leaves port.

Priority I inspections may, in certain circumstances, be deferred to another port in the same Member State, or a port in another Member State if the latter agrees. Inspections will not be conducted if a port call takes place only at night or if in the judgement of the Port State the inspection would create a risk to the safety of the inspectors, the ship, its crew, the port or the marine environment. However, in the event of repeated port calls at night, special arrangements will be made to carry out an inspection.

Additional surveys are triggered by an "overriding factor" or "unexpected factor", depending on the severity of the incident. A vessel will be classified as Priority I in the event of an "overriding factor", irrespective of when its next periodic survey is due. “Overriding factors” include:

• Ships which have been suspended or withdrawn from their class for safety reasons since the last inspection
• Ships which have been the subject of a report or notification by another Member State
• Ships which cannot be identified in the inspection database
• Ships which have been involved in a collision, grounding or stranding on their way to the port
• Ships which have been accused of an alleged violation of the provisions on discharge of harmful substances or effluents
• Ships which have manoeuvred in an erratic or unsafe manner whereby routing measures, adopted by the IMO, or safe navigation practices and procedures have not been followed

Similarly an “unexpected factor” will cause the ship to be classified as Priority II. “Unexpected factors” include:

• Ships which have not complied with the applicable version of the IMO Recommendation on navigation through the entrances to the Baltic Sea
• Ships carrying certificates issued by a formerly recognised organisation whose recognition has been withdrawn since the last inspection
• Ships which have been reported by pilots or port authorities or bodies as having apparent anomalies which may prejudice their safe navigation or pose a threat of harm to the environment
• Ships which have failed to comply with the relevant notification requirements
• Ships which have been the subject of a report or complaint by the master, a crew member, or any person or organisation with a legitimate interest in the safe operation of the ship, on-board living and working conditions or the prevention of pollution, unless the Member State concerned deems the report or complaint to be manifestly unfounded
• Ships which have been previously detained more than three months ago
• Ships which have been reported with outstanding deficiencies, except those for which deficiencies had to be rectified within 14 days after departure, and for deficiencies which had to be rectified before departure
• Ships which have been reported with problems concerning their cargo, in particular noxious and dangerous cargoes
• Ships which have been operated in a manner posing a danger to persons, property or the environment
• Ships where information from a reliable source becomes known, to the effect that their risk parameters differ from those recorded and the risk level is thereby increased
Inspections carried out under the present regime will count for determining when the next inspection is due.

Notwithstanding any of the above, a Member State has the right to inspect a vessel at any time if they deem it to be appropriate.

**Inspection Types**

Under the NIR there are three types of inspection: initial, more detailed and expanded. Periodic inspections of Low Risk Ships and Standard Risk Ships other than bulk carriers, gas tankers, oil tankers, chemical tankers or passenger ships, older than 12 years of age, will be an initial inspection. However, if clear grounds are found during an initial inspection indicating that the vessel is not complying with particular convention requirements, a more detailed inspection will be carried out.

All High Risk Ships regardless of type, and all bulk carriers, gas tankers, oil tankers, chemical tankers and passenger ships, older than 12 years of age, will be subject to an expanded inspection, together with vessels due to be re-inspected following a ban.

If an Additional inspection is warranted, this will be no less than a more detailed inspection. However, in the case of a High Risk Ship or a bulk carrier, gas tanker, oil tanker, chemical tanker or passenger ship, older than 12 years of age, the Member State may decide to perform an expanded inspection.

**Banning and Refusal of Access Criteria**

Under the present system only certain ship types may be banned or refused access to EU ports if registered with a flag state appearing on the Paris MoU black list. Under the NIR, this sanction will apply to all vessels regardless of type if registered with a flag state appearing in the Paris MoU black or grey lists.

From 1 January 2011 vessels will be refused access to all ports in the EU region if:

- Registered with a black listed flag state and detained more than twice in the preceding 36 months
- Registered with a grey listed flag state and detained more than twice in the preceding 24 months

Bans will also be subject to a minimum duration:

- 3 months after the first ban
- 12 months after a second ban
- 24 months after a third ban
- Permanent after a fourth ban

Any subsequent detention following a second ban will lead to another ban.

A vessel banned for the third time must comply with stringent conditions before the 24 month period has elapsed, otherwise it will be refused access permanently.

It is important to note that a ban affects a vessel’s EU Port State Control record for life, regardless of any changes of ownership, class or flag.

**Reporting**

In addition to the current reporting requirements, as from 1 January 2011 the following information must be transmitted for all ships arriving or leaving a port or anchorage within the EU region:

- Pre-arrival notification, at least 72 hours in advance for ships eligible for expanded inspection
• Pre-arrival notification at least 24 hours in advance (or on departure from the previous port if the voyage is less than 24 hours)
• Actual Time of Arrival
• Actual Time of Departure

The requirement for the operator, agent or master of a ship which is subject to an expanded inspection to provide 72 hours notice before the expected time of arrival (or before leaving the previous port or anchorage if the voyage is expected to take less than 72 hours) already exists for certain ships. However, as from 1 January 2011 this requirement will also apply to:

• All ships with a high risk profile
• Any passenger ship, oil tanker, gas tanker, chemical tanker or bulk carrier, older than 12 years of age

Information on ships eligible for expanded inspection will be made available online.

The 72 hour notification must include at least the following information:

• Ship identification (name, call sign, IMO or MMSI number and flag)
• Planned duration of the call (ETA/ETD)
• For tankers: (a) hull configuration: single hull, single hull with segregated ballast tanks, double hull, (b) condition of the cargo and ballast tanks: full, empty, inerted, (c) volume and type of cargo
• Planned operations at the port or anchorage of destination (loading, unloading, other)
• Planned statutory survey inspections and substantial maintenance and repair work to be carried out whilst in the port of destination
• Date of the last expanded inspection in the Paris MoU region

The new Port State Control reporting obligations are summarised in a leaflet published by the Paris MoU and EMSA.

Further Information
• Paris MoU – The New Inspection Regime (NIR) of the Paris Memorandum of Understanding
• European Maritime Safety Agency – New Port State Control Reporting Obligations
• European Maritime Safety Agency–Media Sheet on New Inspection Regime

The guidance contained in this article is an overview of the new regulatory requirements that will enter into force on 1 January 2011. Members are advised to check the detailed requirements of the EU Directive and ensure that their vessels are suitably prepared.

In the event of any queries, please contact the Loss Prevention Department.