

Maritime Summary Note n°268 – February 2025

« Ship Inspections : A key aspect of maritime safety »

The rules in force regarding the safety and security of vessels and their crews are primarily formulated by international bodies via the International Maritime Organization (IMO) and the International Labour Organization (ILO), and, as far as European Union member countries are concerned, by the European Commission and the European Maritime Safety Agency (EMSA). The enforcement monitoring of these frameworks falls under the direct jurisdiction of sovereign States. It is incumbent upon the flag State (l'État du pavillon) to bear the primary responsibility of ensuring that a vessel flying its flag is entirely seaworthy and disposes of the mandatory statutory certificates. This oversight can, if required, be delegated to recognized organizations (classification societies).

The baseline principle remains that the primary liability for complying with the requirements encoded within international maritime conventions rests with the shipowning company. The responsibility to verify their conformity with international rules regarding safety, pollution prevention, and seafarers' living and working conditions is vested in the flag State (the country of vessel registration). Facing an occasionally ineffective enforcement of international regulations by selected flag States, and in order to suppress substandard shipping, coastal States reacted by implementing a coordinated oversight framework targeting foreign vessels calling at their gateways: Port State Control (PSC).

The Memoranda of Understanding (MoU) Architecture

The structural principle of Port State Control initially emerged on the international stage with the signing of the SOLAS Convention in 1974. Following successive high-profile maritime casualties, the system was continually developed and optimized to take on the contemporary operational shape we know today, relying predominantly on regional administrative agreements known as Memoranda of Understanding (MoU), from which European community law has extensively drawn inspiration.

The historical disasters of the tankers Torrey Canyon and Amoco Cadiz revealed the absolute necessity to execute systematic controls on foreign-flagged vessels. Any vessel flying the flag of a foreign State calling at a port or anchoring within the legal limits of territorial waters is liable to be subjected to physical inspections. As the pioneer regional inter-administrative agreement, the "Paris Memorandum of Understanding" (Paris MoU) was signed in 1982; its core mandate focuses on harmonizing inspection procedures through standardized guidelines (Paris MoU Guidelines), which represent a precious technical asset for inspectors.

It is concurrently tasked with orchestrating "Concentrated Inspection Campaigns" (CICs), notably when a greenfield convention enters into force or following recurring deficiencies logged during the previous year's inspections. Following the catastrophic shipwrecks of the Erika in 1999 and the Prestige in 2002, the control of high-risk vessels was heavily reinforced through the systematization of expanded inspections and the widening of the statutory scope of vessel bannissements.

Today, the Paris MoU aggregates 28 maritime administrations and covers the entirety of the waters flanking European coastal States (encompassing the EU, the United Kingdom, Norway, Montenegro, and Canada, while Russia's membership is currently formally suspended). Historically, the individual State parties to the Paris MoU were mandated to inspect a 25% quota of foreign vessels calling at their ports. Henceforth, the updated common objective targets a 100% inspection rate of all vessels touching ports within the Paris MoU region.

Since its practical rollout, the proportion of vessels detained has steadily declined. Moving from an initial decade baseline where 10% of annually inspected ships faced an immediate technical immobilization (immobilisation), detentions have plummeted to a mere 3% of vessels calling at European gateways today. Annually, more than 17,000 shipboard inspections are executed on foreign vessels within Paris MoU gateways. This matrix guarantees that merchant crafts satisfy international standards regarding

safety, security, and environmental protection, while ensuring that crew members benefit from adequate onboard living and working conditions.

In 1994, capitalising on the successful operational experience of the Paris MoU, Asia-Pacific States decided to engineer the Tokyo MoU. Numerous regional agreements rapidly followed this path: including the Abuja MoU, Riyadh MoU, Mediterranean MoU, Black Sea MoU, Indian Ocean MoU, the United States Coast Guard (USCG) inspection regime, the Viña del Mar Agreement, and the Caribbean MoU. The comprehensive results and deficiency datasets derived from all Port State Control inspections conducted across these diverse mémorandums are centrally aggregated within the EQUASIS global database. Annual statistical reports are published, alongside the benchmark White, Grey, and Black Lists, enabling the maritime industry to precisely measure the quality performance of flag registries and classification societies.

The White List encompasses the registries of historical maritime nations (with France ranking 11th in 2024), but identically clusters the absolute majority of open open registries (registres de libre immatriculation) managed by private corporate entities (such as the Bahamas, Cayman Islands, and Liberia), with the notable contemporary exception of Panama. Conversely, the Black List groups the substandard flags of convenience that underperform in enforcing conventions, traditionally selected by low-cost operators looking for registries completely denuded of genuine technical controls. These performance lists operate as an unassailable guarantee of reliability for commercial banks, marine underwriters, cargo shippers, and charterers worldwide.

European Union Law and the Erika Legislative Architecture

Maritime safety and security operate as an exclusive competence of the European Union. Consequently, during the mid-1990s, the European Community integrated the absolute entirety of the Paris MoU's administrative provisions through the enactment of Directive 95/21/EC of June 19, 1995. This directive rendered the operational guidelines of the memorandum legally binding and mandatory for all EU Member States, while firmly banning access to Community ports for any substandard vessels attempting to evade Port State Control inspections. Following the catastrophic shipwreck of the tanker Erika in 1999, the European Commission aggressively accelerated this regulatory integration by adopting consecutive waves of macro-legislative packages.

The Erika I Package

This initial legislative package heavily reinforced the inspection regime previously encoded within Directive 95/21/EC, locking in mandatory expanded inspections specifically tailored for ship categories presenting heightened, characterized risk profiles. These targets encompass crude and product tankers along with passenger vessels older than 15 years, chemical tankers and liquefied gas carriers older than 10 years, and dry bulk carriers exceeding 12 years of age.

Concurrently, Erika I aimed to guarantee a seamless, uniform application of safety rules across all European waterfronts, enforcing drastically higher quality control standards on recognized organizations and classification societies, while maximizing the transparency of inspection deficiency datasets. It notably introduced a strict state audit framework over classification societies, to be executed directly by the competent national administrations of individual Member States. In the event of a proven, verified professional default or negligence, a classification society can face the temporary suspension or permanent withdrawal of its statutory administrative license. Furthermore, the third-party civil liability of the classification society can be legally engaged before courts following a marine casualty, in cases of verified professional fault.

The Erika II Package

Directive 2002/59/EC of June 27, 2002, mandated the structural deployment of a high-velocity Community vessel traffic monitoring and information system, baptized SafeSeaNet. Under this framework, it is incumbent upon the operator, manager, or Master of a vessel, prior to entering any EU port gateway, to electronically report comprehensive maritime datasets to the competent port and coastal authorities, most stringently when the vessel is transporting dangerous or polluting goods (DG freight).

To secure this reporting network, commercial vessels are statutorily required to be equipped with automated tracking technologies, specifically the Automatic Identification System (AIS) to ensure real-

time shoreside situational awareness, coupled with a voyage data recorder (VDR or shipboard "black box") designed to permanently log navigational parameters and bridge audio streams.

Furthermore, the directive explicitly mandates that Member States formulate robust, predetermined plans for accommodating vessels in distress within designated places or ports of refuge.

The second Erika Package historically engineered the European Maritime Safety Agency (EMSA), which is tasked, among alternate core missions, with monitoring the Port State Control inspection regimes implemented by coastal states and auditing recognized European classification societies. Within this regulatory landscape, Port State Control inspections executed by any sovereign State party to the Paris MoU have transitioned under the direct supervision of the EMSA via the SafeSeaNet (SSN) data network.

The EMSA actively participates in all Paris MoU working groups and systematically audits Member States to verify compliance with their statutory obligations. In the event of non-compliance, the EMSA directly reports Member States' deficiencies—such as mandatory inspections left unexecuted or failure to hit specified inspection quotas—to the European Commission. The Commission can subsequently initiate formal infringement proceedings before the Court of Justice of the European Union (CJEU), with severe pecuniary sanctions and financial penalties locked in case of persistent non-conformity following the Court's ultimate judgment. Crucially, EU Member States are bound by an obligation of result (obligation de résultat) and not merely an obligation of means regarding the statutory quota of shipboard inspections to be executed.

The Erika III Package and the THETIS Targeting Matrix

In 2009, the European Union heavily tightened its maritime legislation targeting high-risk vessels through the adoption of the Erika III Package and the enactment of Directive 2009/16/EC, which operated as a comprehensive recast of all statutory texts governing Port State Control. Accordingly, the updated text integrated the most proven, field-tested operational procedures derived from the Paris MoU, locking in a drastic reinforcement of shipboard controls inside European gateways for substandard vessels, expanding the permanent banning (bannissement) of selected ship categories, and tightening state oversight over recognized classification organizations.

The practical rollout and continuous monitoring of this New Inspection Regime (NIR) have been orchestrated since January 1, 2011, through a centralized, high-velocity information network baptized THETIS (The Hybrid European Targeting and Inspection System), wholly managed and hosted by the EMSA.

This advanced algorithmic system automatically isolates and indicates the specific merchant vessels that must be subjected to priority inspections (Priority I ships), factoring in a complex risk profile matrix: including the vessel's specific typology, its age profile, the performance of its flag registry, the historical track record of its shipping company, alongside the presence of any outstanding deficiencies or formal detentions logged over the rolling three-year timeline.

THETIS concurrently functions as the mandatory international registry to record and lock in live inspection results. These detailed inspection reports are instantly made available to all competent maritime administrations operating under the dual umbrella of the European Union Port State Control and the wider Paris MoU framework.

Furthermore, THETIS is seamlessly interfaced with alternative critical databases dedicated to ship board safety: explicitly encompassing the registries of EU-recognized classification societies, national and community maritime data streams, and external datasets originating from adjacent regional Port State Control Memoranda of Understanding worldwide.

Port State Control officers (PSCOs) record their inspection reports directly into the system, explicitly logging all noted deficiencies. They concurrently signal whether deficiencies identified during previous inspections have been successfully rectified.

To facilitate fluid planning, the THETIS system is seamlessly linked to the SafeSeaNet data network, which delivers real-time information regarding foreign vessels currently present or expected within all EU port gateways. Under this framework, annual shipboard inspections are strictly mandatory for vessels commanding a High Risk Profile (HRP), while remaining optional for alternative profiles. A high priority is systematically directed toward auditing vessels that rarely make port calls within European Union jurisdictions (*Priority I vessels*).

Concretely, the physical inspection of the vessel—a portion of the operational fees of which is legally charged to the shipowner or operator—encompasses several technical realities:

- Verifying that the vessel is fully provided with all valid certificates and documentation regarding safety, security, marine pollution prevention, and the Maritime Labour Certificate (MLC) mandated by international conventions, European community directives, and national laws.
- Confirming the absolute absence of any apparent deficiencies or non-conformities with applicable texts engineered to safeguard the security of the ship, the crew, and all persons on board, alongside environmental protection and the statutory standards governing employment, working, and living conditions on board.
- Verifying, where applicable, whether anomalies and deficiencies logged during a previous Port State Control inspection have been completely and properly remedied by the crew or ship repair yards.

The Competences and Double Nature of Classification Societies

Sovereign public authorities are legally empowered, through formal mechanisms of delegation, to vest administrative competence into recognized classification societies, historically termed Recognized Organizations (ROs — *Sociétés de Classification Habilitées*), to act ex-officio on behalf of the State regarding merchant vessels flying the national flag. In this capacity, they enforce and audit shipboard compliance face to both domestic and international requirements governing maritime safety and environmental protection, specifically overseeing the official issuance, endorsement (*visa*), or structural renewal of statutory safety and pollution prevention certificates.

In parallel with this public law mandate, classification societies concurrently execute commercial private law missions. They are tasked with the technical classification of vessels, an engineering operation that consists of auditing and scoring the technical quality of the ship through the allocation of a specific class notation. This notation defines the precise degree of confidence and structural reliability that can be granted to the asset, serving as a baseline reference for charterers, marine hull underwriters, or prospective corporate buyers. Crucially, classification certificates do not constitute an irrefragable, absolute proof (*preuve irréfragable*) of a vessel's pristine structural condition or flawless maintenance; they merely establish a rebuttable legal presumption.

Ultimately, Port State Control (PSC) inspections stem strictly from the sovereign regalian powers of a State and are completely non-transferable to the private commercial sector. Classification societies subsist and thrive exclusively on their international market reputation. Consequently, a vessel detained under a Port State Control (PSC) order severely tarnishes the corporate renown and standing of the classification society that underwrote its class.

Typologies and Operational Consequences of Port State Control Inspections

The initial inspection minimally encompasses a physical walkthrough and visual assessment across the navigation bridge, the main weather decks, the machinery spaces, the commercial cargo handling areas, and the crew accommodations. The Master of the vessel is statutorily mandated to deliver secure, unassailable boarding assets to enable the inspector's safe access onto the ship. In the event of an operational failure or refusal to secure these means, the vessel's departure can be legally adjourned until the port state control inspection can be fully executed.

An expanded inspection triggers an in-depth, granular audit of conformity targeting onboard shipboard operational procedures whenever the initial inspection reveals clear grounds (*défauts apparents*) of non-compliance.

The expanded inspection can furthermore target a vessel based on third-party hazard notifications, historical screening criteria—such as uncorrected past deficiencies or specific shipboard engineering parameters—the performance indicators of the management company, the track record of the flag State, or the quality ranking of the recognized classification society.

During this expanded inspection, the inspector dictates the mandatory prescriptions required to rectify the logged anomalies, establishing a strict correction timeline and, if technically necessary, the explicit geographic location where the repairs must be executed. He meticulously logs within his final report all corrective actions that were successfully performed shoreside.

The extended inspection targets merchant vessels satisfying strict risk-profile criteria established by the central administration: encompassing the ship's typology, its age profile, its historical casualty track record alongside that of its operating company, and the raw deficiency datasets derived from past inspections conducted by French authorities or alternate foreign States under the PSC umbrella.

Under this framework, live physical tests of shipboard equipment, critical machinery installations, and mandatory crew emergency drills (*mises en situation critiques*) are statutorily required. These

operational tests are engineered to demonstrate the seamless functioning of the vessel's safety systems and the real-time proficiency of the crew face to shipboard hazards.

The Enforcement Matrix and Coercive Measures

The regulatory regime governing the legal measures that port state control inspectors can execute under the provisions of the Paris MoU is structured around three distinct tiers:

1. The verification of compliance: logging zero anomalies or registering minor deficiencies (*déficiences mineures*) that require no formal administrative prescription.
2. Deficiency rectification demands: formal prescriptions ordering the mandatory suppression of anomalies, bound by strict rectification deadlines to be completed prior to departure, or executed immediately in cases of imminent danger (*danger imminent*). In the latter scenario, the vessel's commercial cargo operations are instantly frozen. It is the absolute responsibility of the shipowner to restore asset compliance before outbounding or, at the very latest, upon reaching the subsequent port-of-call. In any event, the deficiency observation is instantly locked into the THETIS algorithmic database and remains fully verifiable during the ship's next inspection.
3. The formal detention: the strict, legally binding prohibition served against a vessel, banning it from taking the sea due to logged deficiencies which, either individually or cumulatively, render it entirely impossible for the merchant craft to navigate safely. The detention order is formally issued by the competent inspector, operating on the basis of the technical criteria codified within the Paris MoU Guidelines, transposed into French domestic law under Division 150 of the *Arrêté* of 1987, while concurrently leveraging his own professional seafaring experience and maritime judgment.

The shipowner rigidly retains his underlying proprietary rights over the vessel asset. The formal detention (*l'immobilisation*) can strictly only be lifted once the competent inspector has verified that the merchant craft can, subject to any technical conditions he deems mandatory to impose, depart the port gateway without presenting any risk to safety, security, the crew, onboard passengers, or any manifest hazard to alternative vessels, the harbor infrastructure, and the marine environment.

The ship operator is entitled to formally request that an inspection dedicated to lifting the detention be executed within a reasonable timeline. Furthermore, the shipowner or operator disposes of the statutory right to lodge an administrative appeal against the inspector's decision before the Head of the Ship Safety Center, alongside a secondary appeal tier challenging the decisions taken directly by the Head of the CSN. Surgically speaking, if a vessel has been unduly detained or delayed by the administration, the owner or operator can legally engage the civil liability of the State to extract financial compensation for the operational prejudice and demurrage sustained.

Sovereign administrative authorities hold the absolute right to refuse access to port gateways for any vessel presenting an elevated risk profile to maritime safety, security, or the environment, in cases of severe non-compliance with the living and working conditions of the crew, or when the ship has violated a binding detention order issued against it. National authorities can legally deny entry into their ports to merchant crafts that have been formally detained more than twice over the rolling 2 to 3 previous years. This core framework was expanded by Directive (EU) 2017/2110, which broadened the scope of Directive 2009/16/EC to explicitly encompass mandatory inspections of ro-ro passenger ships and high-speed passenger craft (HSC) in regular service. Before these specific vessels can officially begin deploying a regular scheduled line, competent maritime administrations must inspect them to guarantee they strictly satisfy the operational requirements of safe regular transit. In cases where a vessel has been fully audited by alternate EU Member States within the previous 8 months and was judged fully capable of safely operating a regular service, it is not required to undergo a duplicate inspection.

Port State Control Enforcement Under the French Maritime Administration

France has historically acted as a primary driving engine to accelerate global maritime safety overhauls and the prevention of marine pollution. The English Channel asserts itself as one of the single most heavily congested maritime shipping corridors worldwide, handling over 300,000 vessel transits per year; as a major coastal State, France has historically suffered successive severe maritime disasters and catastrophic oil spills. Consequently, Paris is a contracting party to three distinct regional agreements: the *Paris MoU*, the *Caribbean MoU*, and the *Indian Ocean MoU*.

Within the French domestic landscape, Port State Control inspections targeting foreign-flagged merchant fleets fall under the regalian competence of the DGAMPA, which commands a highly

specialized brigade of approximately one hundred qualified marine inspectors executing these audits through regional Ship Safety Centers scattered across metropolitan coastlines and Overseas territories. Moving along this path, Article L. 5241-4-3 of the French Transport Code explicitly mandates that *"vessels flying the flag of a foreign State calling at a French port or anchorage are liable to be subjected to inspections under the precise conditions specified by a decree of the Conseil d'État."*

The tragic historical tankers shipwrecks of the 1970s (*Amoco Cadiz*) revealed the absolute necessity to enforce systematic controls on foreign tonnage. Thus, any foreign-flagged craft anchoring or calling inside a French gateway can be subjected to technical inspections, executed by a Ship Safety and Marine Occupational Risk Prevention Inspector practicing within a CSN.

Administratively, the CSNs operate as highly specialized regional services nested within the Interregional Directorates for the Sea (DIRM) across the metropole, and within the Directorates for the Sea (DM) across Overseas territories. Each CSN functions as a specialized regional office focused on preventing occupational hazards for seafarers. In metropolitan France, the grid counts 14 active CSNs (comprising 6 centers along the English Channel range, 6 across the Atlantic façade, and 2 anchoring the Mediterranean range). Across the Overseas departments, specialized CSNs are hosted in Fort-de-France (Martinique) and Saint-Denis (Réunion Island), while in New Caledonia, French Polynesia (Tahiti), and Saint Pierre and Miquelon, these tasks transition through the sovereign Maritime Affairs Services.

The primary, daily mandate of these centers focuses on executing mandatory safety surveys on French commercial vessels, which must statutorily hold a valid navigation license. In parallel, they rigidly enforce international maritime conventions through Port State Control (PSC) inspections or ensure compliance with domestic decrees regarding safety, environmental pollution prevention, maritime security, and social labor certification (MLC 2006 compliance).

Inspectors are empowered to execute inspections upon formal notification, triggered notably by harbor pilots or CROSS stations when a vessel has encountered severe machinery issues at sea and is forced into a constrained anchorage stop, or following a formal complaint lodged directly by the shipboard crew. In conclusion, the diverse regional MoUs—which operate as intergovernmental organizations holding official observer status before the IMO—actively contribute to supranational regulatory overhauls through their continuous participation within the IMO Sub-Committee on Implementation of IMO Instruments (III Sub-Committee). While the IMO remains structurally slow to react due to heavy multilateral diplomacy, regional MoUs deploy significantly higher operational agility and responsiveness. Furthermore, European Union directives expand extensively beyond the baseline, legacy guidelines of the IMO's *Resolution A.682(17)*. European Port State Control strictly harmonizes the uniform enforcement of community law by addressing its coercive mechanisms to all foreign vessels calling at its ports, completely regardless of whether their flag State is a contracting party to the diverse international conventions. They stand as the ultimate shoreline line of defense against substandard shipping, locking in a fair, level playing field among ocean carriers face to the contemporary challenges of maritime safety, security, global environmental protection, and the unassailable defense of seafarers' rights worldwide.

Camille VALERO

English translation generated by Gemini AI