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 (Text with EEA relevance)

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

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control[(1)], and in particular Article 10(3) and Article 27 thereof,

Whereas:

(1) Company performance is one of the generic parameters determining the risk profile of a ship.

(2) With a view to determining the performance of companies within the meaning of Directive 2009/16/EC, it is necessary that, when inspecting a ship, inspectors record the IMO number assigned to a company.

(3) In order to assess company performance, the deficiency and detention rates of all ships in a company's fleet, which have been subject to an inspection within the Union and within the region covered by the Paris Memorandum of Understanding on port State control (Paris MoU), should be taken into account.

(4) It is necessary to build upon the expertise acquired through the application of the Paris MoU with regard to the methodology used for assessing company performance.

(5) The Commission should rely on the European Maritime Safety Agency established by Regulation (EC) No 1406/2002 of the European Parliament and of the Council[(2)] for the publication on a public website of the list of companies with a low or very low performance.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Safe Seas and the Prevention of Pollution from Ships,

HAS ADOPTED THIS REGULATION:

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 802/2010. (See end of Document for details)*

Article 1

Identification of companies

Member States shall ensure that the company as defined in Article 2(18) of Directive 2009/16/EC is identified through the IMO number where the ship has to comply with the International Safety Management Code (ISM Code) as referred to in Chapter IX of the International Convention for the Safety of Life at Sea (SOLAS Convention).

Article 2

Criteria for assessing the company performance

1 With a view to assessing the company performance referred to in point (e) of Part I.1 of Annex I to Directive 2009/16/EC, the criteria set out in the Annex to this Regulation shall be used.

2 The level of company performance shall be updated daily and calculated on the basis of the 36 months preceding the assessment. For that purpose the calculation shall be made on the basis of data collected from 17 June 2009. Where less than 36 months have elapsed since 17 June 2009, the calculation shall be made on the basis of the available data.

3 The companies shall be ranked as having a very low, low, medium or high performance as listed in point 3 of the Annex.

Article 3

Publication of lists of companies with a low and very low performance

1 The Commission shall be assisted by the European Maritime Safety Agency (EMSA) with a view to the regular publication on a public website of information on companies with a low and very low performance in accordance with Article 27 of Directive 2009/16/EC.

[[F1]2 EMSA shall publish, from 1 January 2014, and update on a daily basis on its public website the following information:

a the list of companies whose performance has been very low for a continuous period of 36 months;

b the list of companies whose performance has been low or very low for a continuous period of 36 months;

c the list of companies whose performance has been low for a continuous period of 36 months.**]**

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) No 1205/2012 of 14 December 2012 amending Regulation (EU) No 802/2010 as regards the company performance (Text with EEA relevance).

Article 4

Entry into force and application

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2011.

This Regulation shall be binding in its entirety and directly applicable in all Member States.