Commission Regulation (EU) No 801/2010 of 13 September 2010 implementing Article 10(3) of Directive 2009/16/EC of the European Parliament and of the Council as regards the flag State criteria (Text with EEA relevance)

COMMISSION REGULATION (EU) No 801/2010

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(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) thereof,

Whereas:

(1) Flag State performance is one of the generic parameters determining the risk profile of ships.

(2) In order to assess the risk profile of a ship, the detention rate 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.

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

(4) 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:

Article 1

Categorization of flag States based on the detention rates

1 With a view to establishing flag State performance within the meaning of Directive 2009/16/EC, flag States shall be classified into black, grey or white lists, adopted in accordance with the Paris MoU on the basis of the total inspections and detentions over a three year period. Additionally, flag States listed in the black list shall be divided into very high, high, medium to high or medium risk depending on their detention rate. The classification shall be updated yearly.

2 Classification of a flag State into the black, grey or white list requires a minimum of thirty port state control inspections.

3 The methodology and formulas to be used to categorize the flag States shall comply with the flag State criteria as set out in the Annex.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EU) No 801/2010. (See end of Document for details)

Article 2

Flag State performance based on the IMO audit

The compliance referred to in point (c) (iii) of Part I.1 of Annex I to Directive 2009/16/EC required for ships to be considered as posing a lower risk, shall be regarded as demonstrated when the Commission receives a written confirmation from the flag State that a final audit report has been completed and where relevant, a corrective action plan submitted. Audits carried out before 17 June 2009 shall be taken into account equally.

Article 3

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.

Done at Brussels, 13 September 2010.

For the Commission

The President

José Manuel BARROSO