

PSCircular 61

1 JUNE 2013

GUIDANCE FOR PSC ELIGIBILITY OF YACHTS

1. Introduction

- 1.1 This guidance is only intended to determine whether a yacht is eligible for port State control in the framework of the Paris MoU on Port State Control (MoU) or not.
- 1.2 Once it has been determined that a yacht be eligible for port State control, the provisions of the MoU apply.
- 1.3 Yachts not engaged in trade will be referred to as pleasure yachts
- 1.4 Yachts engaged in trade will be referred to as commercial yachts.

2. Background information

- 2.1 The mandate for port States to perform Port State Control (PSC) inspections is provided for in each individual International Convention. Most of these Conventions are considered a relevant instrument for the Paris MoU and are listed in Section 2 of the Memorandum.
- 2.2 The members of the Paris MoU use the THETIS database, among others, to determine if ships are eligible for a PSC inspection and to report the results of PSC inspections. The THETIS database automatically receives port call notifications of ships sent by the competent Authorities of all MoU members.
- 2.3 On a regular basis port notifications are received pertaining to 'yachts'. Whether these 'yachts' are eligible for PSC inspections has to be determined by the PSC Authority.

3. Status of yachts

- 3.1 The only relevant instrument in which "yachts" are mentioned is the International Load Line Convention (ILLC).
- 3.2 The ILLC applies to *i.a.* "ships engaged in international voyages".
- 3.3 The ILLC does not apply to *i.a.* "pleasure yachts not engaged in trade".
- 3.4 This wording implies that the ILLC does apply to "pleasure yachts engaged in trade", making international voyages. In order to avoid misunderstandings in

the framework of these guidelines, the wording in paragraph 1.3 and 1.4 will be used.

3.5 In the context of the ILLC (Article 21) port State control may be exercised on commercial yachts making international voyages. These yachts shall be issued with an International Load Line Certificate.

3.6 Commercial yachts are subject, as far as applicable, to the requirements of the relevant instruments listed in Section 2 of the MoU.

4. When to determine the status of a yacht

4.1 In order to determine whether a yacht is used for pleasure or commercially, PSCOs should be guided by the following:

4.1.1 Yachts may be operating as a pleasure yacht on a permanent basis. These yachts are not subject to port State control.

4.1.2 Yachts may be operating commercially on a permanent basis. These yachts are subject to port State control at all times.

4.1.3 Yachts which alternate in the use as commercial or for pleasure. The port State has to determine on a case-by-case basis if the yacht is subject to port State control or not.

4.2 Information on the arrival of yachts is made available through THETIS. Since some yachts may change status frequently, the information system may not be able to provide the most recent status. When a yacht is displayed as a pleasure yacht, it will not have a Ship risk profile. However, the yacht may also be operating commercially at the time of the port call and therefore the yacht could be subject to an inspection.

4.3 Commercial yachts which have been inspected in the Paris MoU region will have a ship risk profile and subsequently a Priority 2 and/or Priority 1 date. When the yacht is due for an inspection the port State may or shall inspect the yacht. However, during the inspection evidence may be presented that the yacht is no longer operating commercially and is used for pleasure only. In this case there is no basis to continue an inspection. The ship type should be amended to pleasure yacht in THETIS.

5. How to determine the status of a yacht

5.1 The following evidence may determine the status of a commercial yacht:

1. Listed in THETIS as commercial yacht: follow priority indicated by THETIS;
2. Listed in THETIS as pleasure yacht: the port State may determine the status of the yacht by on board verification (resources permitting). If the on board status has been changed to commercial yacht, it is subject to an inspection;
3. No records in THETIS: the yacht will receive an overriding factor (P1);
4. Other available sources.

5.2 It is the responsibility of the master to provide evidence to the port State to allow determination of the status of the yacht. The following evidence may indicate the commercial use of a yacht:

1. Certificate of Registry or other document of nationality stating that the status of the yacht is a commercial yacht.
2. International Load Line Certificate.
3. Other certificates, as appropriate, and to the extent applicable listed in Annex 10 of the MoU.

5.3 When a Certificate of Registry or other document of nationality is stating that the status is a pleasure yacht, this should be accepted by the port State. The port State may consult on the status of the yacht with the flag State, if and when appropriate.

5.4 Even if a yacht has been issued with a Certificate of Registry by the flag State stating that it is a 'pleasure yacht' there may be indications that it is factually used commercially. Commercial use may be indicated by advertising around the port or on the internet stating that the yacht is available for charter.

6. Inspections of commercial yachts

6.1 When the status of a yacht has been determined, either from THETIS or from an on board verification, an inspection shall take place in accordance with the provisions of the MoU.

6.2 When a commercial yacht is listed in THETIS as a P2, the yacht may be inspected by the port State. During the P2 period the master or owner may consult with the port State to arrange the inspection at a convenient time. The port State may require conditions under which such an inspection takes place, also taking into account available resources.