

ANNEX III

Inspection and Enforcement System

Based on a ship's risk profile (Risk 1, Risk 2, Risk 3, or Risk 4), as determined in accordance with Annex I, and without prejudice to the discretion of the competent authorities of a port/coastal State to determine the most appropriate course of action in discharging their due diligence obligations vis-à-vis vessels posing a risk of non-compliance with binding international law and bound for their ports, this Annex sets out recommended rules and procedures for inspection and enforcement to be undertaken by competent authorities with respect to vessels identified as presenting such risks. These rules and procedures concern, in particular, compliance with requirements governing the transport of arms and other materials to countries presenting a credible risk of committing genocide, crimes against humanity, grave breaches of the Geneva Conventions, attacks against civilians or civilian objects, or other war crimes (hereinafter "high-risk countries").

Note (1): the schemes and procedures are based, among other things, on rules already developed and applied under regional port State control agreements to ensure compliance with maritime safety, security, and environmental standards, under the auspices of the IMO, such as those listed in Annex 8 of the [Paris Memorandum of Understanding \(MoU\)](#), Annex 2 of the [Tokyo MoU](#), and Annex 2 of the [Viña del Mar MoU](#).

Note (2): the schemes and procedures are also based on rules already developed and applied within the fisheries framework, in particular those established under [Council Regulation \(EC\) No 1224/2009](#), in the context of regional fisheries management organizations (RFMOs) and arrangements, as well as for the implementation of the [Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing \(the PSMA\)](#).

Note (3): the recommended measures and procedures are without prejudice to more restrictive measures imposed under specific national or international legal frameworks, including measures such as confiscation, seizure, disposal, or arrest in cases of illegal trafficking of arms and other materials, as provided for under the [Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime](#).

Section 1 – Inspection schemes

Inspections should be carried out by properly qualified and trained persons authorized for that purpose by the competent authorities of the port State concerned and acting under its responsibility. Each inspector should carry a personal document in the form of an identity card issued by the competent authorities in accordance with the national legislation, indicating that the inspector is authorized to carry out inspections. Inspectors should conduct inspections in accordance with national and international rules, procedures and practices relating to the safety of the vessel being inspected and its crew.

Depending on the ship's risk profile (Risk 1, Risk 2, Risk 3, or Risk 4), different inspection schemes and procedures may be applied, whether on land (port State) or at sea (coastal State).

a. Initial inspection (Risk 3, Risk 4)

An initial inspection should consist of a visit on board the ship to verify the completeness and accuracy of certificates and other documentation related to the transported cargo, as well as other information communicated through the Advance Request of Port Entry in accordance with Annex II, including:

- ❖ verifying, to the extent possible, that the vessel identification documentation on board, as well as information relating to the ownership of the vessel, is accurate, complete, and up to date;
- ❖ verifying that the vessel's flag and markings (e.g. name, external registration number, IMO ship identification number) are consistent with the information contained in the documentation;
- ❖ verifying the accuracy and completeness of any export, import, transit, transshipment, and brokering authorisations, including those issued for the purposes of compliance with the relevant requirements set out in the United Nations Arms Trade Treaty and similar international legal instruments, as well as the consistency between reported vessel and cargo information and the relevant documentation;
- ❖ reviewing all other relevant documentation and records held on board, including, to the extent possible, those in electronic format.

The flag State of the inspected vessel should be promptly informed of any initial inspection and requested to confirm, deny, or comment on its findings, as well as on any other information relevant to the purposes of the inspection.

Initial inspections should be limited to Risk 3 and Risk 4 vessels, for which a full inspection may not be warranted in light of the assessed risk of non-compliance. Nevertheless, where the findings of the initial inspection provide inspectors with reasonable grounds to suspect or confirm that the vessel is involved in the illegal transport of arms or other materials to high-risk countries, or in any other case provided for under national or international law, they should proceed with a full inspection in accordance with sub-section 1(b) below.

b. Full inspection (Risk 1, Risk 2, Risk 3, Risk 4)

Risk 1 and Risk 2 vessels that are not denied entry to port pursuant to Section 3(a) should be subject to a full inspection. Such inspection should consist of an initial inspection in accordance with Section 1(a), followed by a detailed inspection.

The detailed inspection should cover, among other things, a thorough examination of the vessel, including:

- ❖ all relevant areas, decks, and rooms;
- ❖ any transported cargo, including, where necessary for inspection purposes, its unloading at the relevant port facilities;
- ❖ any records relevant to assessing compliance with applicable international obligations;
- ❖ the presence on board of undeclared conventional arms and ammunition/munitions, including parts or components that enable their assembly, as well as any dual-use items not accompanied by the authorisations and documentation required under national and international law;
- ❖ the use and functioning of the automatic identification system and other remote electronic monitoring systems on board.

Where, during or following a full inspection, an inspector has reasonable grounds to believe that the vessel is transporting arms and ammunition/munitions, including parts or components enabling their assembly, or other dual-use items in a manner inconsistent with national law or the international obligations binding upon the relevant coastal or port State, inspectors should promptly take one or more of the enforcement measures set out in Section 3.

The flag State of the inspected vessel should be promptly informed of any full inspection and requested to confirm, deny, or comment on its findings, as well as on any other information relevant to the purposes of the inspection.

The above provisions should also apply to Risk 3 and Risk 4 vessels that have undergone an initial inspection in accordance with Section 1(a) and for which a more detailed inspection is deemed necessary.

Section 2 – Inspection reports database and template

Inspectors should draw up an inspection report following each inspection and transmit it to the competent authorities of the coastal or port State in which the inspection was conducted. The data contained in such reports should, where possible, be recorded and transmitted by electronic means.

Where the inspection concerns a vessel registered in another State, a copy of the inspection report should be transmitted to the competent authorities of the flag State, as appropriate, in order to enable them to take any necessary measures in accordance with national and international law. A copy of the inspection report should also be provided to the master or operator of the inspected vessel.

States should establish and maintain an up-to-date electronic database in which all inspection reports prepared by their inspectors are recorded. Such data should be retained for a minimum period of three years and used for the determination of a vessel's risk profile in accordance with Annex I.

Without prejudice to applicable rules on the protection of personal and commercial data, relevant information, such as instances of denial of port entry and other identified risk factors, may be

shared with other States upon request and used for the purposes of identifying and listing high-risk and standard-risk vessels in dedicated vessel lists for inspection and enforcement purposes.

In order to ensure harmonized collection and reporting of relevant information, the inspection report template set out below may be used:

<i>[port name]</i>
<i>[port authority]</i>
<i>[address]</i>
<i>[telephone]</i>
<i>[email]</i>
<i>[inspection date and time]</i>
<i>[inspector name and title]</i>

1. VESSEL INFORMATION					
Name		IMO number /other unique ID		Arrival to port (approximate time)	
Flag		Gross tonnage		Previous port(s) of call	
Type		Engine power		Next port of call	
Call sign		AIS functioning		Final destination	
Registered operator		Charterer, if any		Any other relevant information	
Pre-determined ship risk's profile, if any	<input type="checkbox"/> Risk 1 <input type="checkbox"/> Risk 2 <input type="checkbox"/> Risk 3 <input type="checkbox"/> Risk 4				

2. CARGO INFORMATION			
Cargo description		Quantities loaded in previous port(s) of call, if any	
Cargo quantities and classification reference		Intermediate Consignee(s) / Transshipment Point(s), if any	

Country of origin (cargo)		Declared end / use of the cargo	
Country of final destination (cargo)		Licences / Authorisations (reference number and issuing authority)	
Supporting documentation (cargo) attached:	<input type="checkbox"/> Cargo manifest <input type="checkbox"/> Bill of lading <input type="checkbox"/> End-use certificate <input type="checkbox"/> Export licence <input type="checkbox"/> Import authorisation <input type="checkbox"/> Insurance certificate <input type="checkbox"/> Flag State declaration of compliance	Is the vessel transporting any of the following items, including parts, or components that provide the capability to assemble them?	<input type="checkbox"/> Conventional arms (battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers, and small arms and light weapons) <input type="checkbox"/> Ammunition/munitions <input type="checkbox"/> Military equipment/components <input type="checkbox"/> Fuel (including aviation or military-grade fuel), coal, or gas (including LNG or refined gas products) If yes, provide detailed description, quantity, weight/volume, and classification references (e.g. HS codes).
Physical inspection findings, if any		Any other relevant information	

3. PRIOR NOTIFICATION (PNO)

Was the PNO submitted within the applicable deadlines?	
Verify PNO information: <ul style="list-style-type: none"> ❖ does it match the information collected during the inspection? If not, record the discrepancies identified. 	

4. FLAG STATE NOTIFICATION

Request from the competent authorities of the flag State: <ul style="list-style-type: none"> ❖ confirmation of the vessel's nationality; ❖ confirmation of the validity and authenticity of the cargo documentation; ❖ confirmation that the cargo is not intended to be used for the commission of genocide, crimes against humanity, grave breaches of the 1949 Geneva Conventions, attacks against 	
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<p>civilians or civilian objects, or other war crimes;</p> <ul style="list-style-type: none"> ❖ information, where available, regarding any detention of the vessel within the previous 24 months; ❖ information, where available, regarding any denial of port entry to the vessel within the previous 24 months. 	
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5. RISK FACTORS DETECTED	
HIGH RISK	STANDARD RISK
<input type="checkbox"/> vessel detained in the previous 12 months for conducting business with high risk countries	<input type="checkbox"/> vessel detained for conducting business with high risk countries in the previous 12-36 months
<input type="checkbox"/> vessel denied entry in port(s) of call in the previous 12 months for related violations	<input type="checkbox"/> vessel denied entry in port(s) of call in the previous 12-36 months
<input type="checkbox"/> vessel known to have been involved in trade with high risk countries in the previous 12 months	<input type="checkbox"/> vessel known to have been involved in trade with high risk countries in the previous 12-36 months
<input type="checkbox"/> flag hopping in the previous 12 months	<input type="checkbox"/> flag hopping in the previous 12-36 months
<input type="checkbox"/> confirmation of poor flag State's performance	<input type="checkbox"/> suspect of poor flag State's performance
<input type="checkbox"/> flag State is a high risk country	<input type="checkbox"/> vessel registered in countries suspected/confirmed of supporting high risks countries
<input type="checkbox"/> no AIS	<input type="checkbox"/> evidence that AIS was switched off without any valid reason
<input type="checkbox"/> departing from high risk countries	<input type="checkbox"/> departing from countries suspected/confirmed of supporting high risks countries
<input type="checkbox"/> docking in high risk countries (after port of departure)	<input type="checkbox"/> docking in countries suspected/confirmed of supporting high risks countries (after port of departure)
<input type="checkbox"/> transshipment in high risk countries	<input type="checkbox"/> transshipment in countries suspected/confirmed of supporting high risks countries
<input type="checkbox"/> intended final destination in high risk countries	<input type="checkbox"/> intended final destination in countries suspected/confirmed of supporting high risks countries
<input type="checkbox"/> the final destination is a high risk country within the previous 12 months	<input type="checkbox"/> the final destination is a high risk country/country supporting high risk countries within the previous 12-36 months
<input type="checkbox"/> evidence that owner (including beneficial owner), operator or charterer conduct a substantial amount of business with high risk countries	<input type="checkbox"/> suspect that owner (including beneficial owner), operator or charterer conduct direct/indirect business with high risk countries
<input type="checkbox"/> owner (including beneficial owner), operator or charterer committed similar violations in the previous 12 months	<input type="checkbox"/> owner (including beneficial owner), operator or charterer committed similar violations in the previous 12-36 months
<input type="checkbox"/> cargo includes any conventional arms and ammunition/munitions, including parts or components	<input type="checkbox"/> cargo include any conventional arms and ammunition/munitions, including parts or components that provide the capability to assemble them, destined to

that provide the capability to assemble them, destined to high risk countries	countries suspected/confirmed of supporting high risks countries
<input type="checkbox"/> wrong/false/missing information on cargo type and nature	<input type="checkbox"/> incomplete information on cargo type and nature
<input type="checkbox"/> wrong/false/missing cargo documentation	<input type="checkbox"/> incomplete cargo documentation
<input type="checkbox"/> evidence cargo may be used for genocide, crimes against humanity, grave breaches of the 1949 Geneva Conventions, attacks against civilians or civilian objects, or other war crimes	<input type="checkbox"/> suspect cargo may be used for genocide, crimes against humanity, grave breaches of the 1949 Geneva Conventions, attacks against civilians or civilian objects, or other war crimes
<input type="checkbox"/> no prior notification 24h before port entry or wrong/false information reported	<input type="checkbox"/> incomplete prior notification
<input type="checkbox"/> confirmed risk of non-compliance, based on evidence provided by other States, UN bodies, civil-society organizations	<input type="checkbox"/> suspected risk of non-compliance, based on evidence provide by other States, UN bodies, civil-society organizations
<input type="checkbox"/> transshipment at sea	<input type="checkbox"/> intended use of the cargo unknown
<input type="checkbox"/> no transshipment authorization	<input type="checkbox"/> master refused to provide additional information requested
<input type="checkbox"/> wrong/false additional information reported by the master	<input type="checkbox"/> master provided incomplete additional information requested
<input type="checkbox"/> wrong/false additional information reported by the flag State	<input type="checkbox"/> flag State refused to provide additional information requested
<input type="checkbox"/> cargo includes dual-use component without flag State's certification or other certification related to their end-use	<input type="checkbox"/> flag State provided incomplete additional information requested
<input type="checkbox"/> cargo includes other military equipment, such as explosives, incendiary or gas bombs, grenades, rockets, rocket launchers, missiles, missile systems, mines or other destructive devices	<input type="checkbox"/> vessel included in any relevant draft/provisional 'high risk' vessels list
<input type="checkbox"/> vessel included in any relevant final 'high risk' vessels list	<input type="checkbox"/> Other risk (provide details)
<input type="checkbox"/> there is evidence that the shipper in the previous 12 months has been conducting business with high risk countries	
<input type="checkbox"/> consignee is in a high risk country or there is evidence that, in the previous 12 months, has been conducting business with high risk	
<input type="checkbox"/> vessel without nationality or assimilated to a vessel without nationality	

6. PRELIMINARY FINDINGS	
High risk indicators present?	
Standard risk indicators present? ❖ Please, indicate if at least 3 standard risk indicators have been identified.	

Risk category determination:	<input type="checkbox"/> Risk 1 <input type="checkbox"/> Risk 2 <input type="checkbox"/> Risk 3 <input type="checkbox"/> Risk 4 <input type="checkbox"/> Other
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7. ACTION TAKEN	
<input type="checkbox"/> No further action required <input type="checkbox"/> Additional documentation requested <input type="checkbox"/> Enhanced inspection required <input type="checkbox"/> Cargo hold sealed pending review <input type="checkbox"/> Vessel detained <input type="checkbox"/> Port entry denied <input type="checkbox"/> Other (specify)	
Any other relevant information	

8. MASTER CONSIDERATIONS	
Please include any relevant observations, objections, or comments provided by the master, if any.	

Section 3 – Port entry and enforcement scheme

Depending on the ship's risk profile (Risk 1, Risk 2) or on the results of any inspection carried out in accordance with Section 1, different enforcement and preparatory enforcement actions and procedures, including those relating to port entry, may be warranted in light of the circumstances of the case.

The table below provides an indicative correlation between risk categories and expected enforcement or preparatory enforcement action, to assist the competent authorities of port and coastal States in their decision-making process.

Deny of port entry	Allow entry without port services, subject to full inspection (Section 1(b))	Allow entry with port services, subject to full inspection (Section 1(b))	Allow entry with port services, subject to initial inspection (Section 1(a))	Allow entry, subject to other/not conditions (where appropriate)	Delay entry until further investigation / request of additional information	Immediate enforcement actions (Section 3(f))
Risk 1, Risk 2	Risk 1	Risk 2	Risk 3, Risk 4	Risk 4	Risk 1, Risk 2, Risk 3, Risk 4	Risk 1, Risk 2, Risk 3, Risk 4

Note (1): decisions regarding port entry and accompanying measures lie with the port State and should be taken on the basis of available information and resources. The correlation between the expected outcomes and the risk categories set out in the table above does not take into account additional considerations that

may be relevant at the time a port entry decision is made. For example, limitations in inspection or enforcement capacity may require a port State, in application of the precautionary approach, to deny port entry even to vessels classified under lower-risk categories.

a. Denial of port entry

Without prejudice to the entry of vessels into port in accordance with international law for reasons of force majeure or distress, Risk 1 and Risk 2 vessels should be denied entry into port where there are clear grounds to believe that the vessel is engaged in illegal conduct and/or where the circumstances of the case do not allow for a full inspection, in accordance with Section 1(b) and subject to the conditions set out in point (b) below. The flag State of the vessel concerned should be promptly informed of any decision to deny entry into port.

b. Allow port entry (with or without port services) subject to full inspection

Risk 1 and Risk 2 vessels should be allowed entry into port exclusively for the purpose of inspection (full inspection under Section 1(b)) and/or for taking appropriate enforcement measures, in conformity with international law.

While in port, Risk 1 vessels should not be permitted to use the port for landing, transshipping, or for other port services, including, among other things, refuelling and resupplying, maintenance, and drydocking, unless otherwise provided for under international law.

c. Allow port entry subject to initial inspection

Risk 3 and Risk 4 vessels, except those covered by other or no conditions in point d below, should be allowed entry into port, exclusively for the purpose of inspection (initial inspection under Section 1(a)) and/or for taking appropriate enforcement measures, in conformity with international law.

d. Allow port entry subject to other/no conditions

Depending on the circumstances of the case and the nature and scope of the relevant risk factors, including those identified under Annex I, entry into port of Risk 4 vessels may be subject to no conditions or to conditions other than an initial inspection under Section 1(a), as provided for under national law.

e. Delay port entry / request additional information

Entry into port of Risk 1, Risk 2, Risk 3, and Risk 4 vessels may be reasonably delayed for the purpose of conducting a necessary on-board inspection or cross-checking the relevant information transmitted through the advance request of port entry, including the information specified in Annex II; or for requesting additional information that may be relevant to the determination of the vessel's risk profile or to inform the decision-making process prior to or during port entry.

f. Immediate enforcement measures

Where relevant data or information, including that collected under Section 1 or through an advance request for port entry in accordance with Annex II, leads the competent authorities of a coastal or port State to believe that a vessel is transporting arms or other materials illegally to high-risk countries, those authorities should immediately, in addition to conducting further investigations and taking any specific measures required under international law in accordance with their domestic legislation, take relevant and immediate enforcement measures, such as:

- ❖ ordering the posting of a bond;
- ❖ temporarily immobilising the vessel, the master, and other persons on board;
- ❖ seizing the vessel or part of its cargo;
- ❖ confiscating relevant documentation;
- ❖ suspending or withdrawing any authorisation or certification issued by the coastal or port State;
- ❖ taking any other measure compatible with national law, upon request of the flag State concerned.

The flag State of the vessel concerned should be promptly informed of any measures taken for the purposes of enforcement.