

<p>Checklist to be used for the monitoring of DIRECTIVE 2005/65/EC of 26 October 2005 on enhancing port security</p>

Monitoring by the Commission

Art.13	<p>2. The Commission shall, in cooperation with the focal points referred to in Article 12, monitor the implementation of this Directive by Member States.</p> <p>3. This monitoring shall be conducted jointly with the inspections provided for in Article 9(4) of Regulation (EC) No 725/2004.</p>
	<i>This provision is the legal basis for the Commission's monitoring</i>

Monitoring of the port of:	Member State:
Name of the focal point:	
Port Security Authority:	
Port Security Officer:	

I. At the national level

Implementation

<p>Art.18 (Nota: to be verified before the monitoring on the spot. Further clarifications may nevertheless be sought during the monitoring of the port)</p>	<p>1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 15 June 2007. They shall forthwith inform the Commission thereof.</p> <p>When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.</p> <p>2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.</p>
	<ul style="list-style-type: none"> • <i>To verify if the relevant legislation has been enacted and communicated to the Commission</i> • <i>To verify the reference(s) to the relevant provisions of the Directive in the national law</i>

Focal point for port security

<p>Art.12 (Nota: to be verified before the monitoring on the spot. Further clarifications may nevertheless be sought during the monitoring of the port)</p>	<p>Member States shall appoint for port security aspects a focal point. Member States may designate for port security aspects the focal point appointed under Regulation (EC) No 725/2004.</p> <p>The focal point for port security shall communicate to the Commission the list of ports concerned by this Directive and shall inform it of any changes to that list.</p>
	<ul style="list-style-type: none"> • <i>To verify if a Port Security Focal Point has been designated</i> • <i>To verify if name and contact details have been communicated to the Commission</i>

	<ul style="list-style-type: none"> • <i>To verify if the list of ports has been communicated to the Commission and regularly updated</i> • <i>To verify that the list notified is still up to date – check dates of changes/amendments</i>
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Scope

Art.2	<ol style="list-style-type: none"> 1. This Directive lays down security measures which shall be observed in ports. Member States may apply the provisions of this Directive to port-related areas. 2. The measures laid down in this Directive shall apply to every port located in the territory of a Member State in which one or more port facilities covered by an approved port facility security plan pursuant to Regulation (EC) No 725/2004 is or are situated. This Directive shall not apply to military installations in ports. 3. Member States shall define for each port the boundaries of the port for the purposes of this Directive, appropriately taking into account information resulting from the port security assessment. 4. Where the boundaries of a port facility within the meaning of Regulation (EC) No 725/2004 have been defined by a Member State as effectively covering the port, the relevant provisions of Regulation (EC) No 725/2004 shall take precedence over those of this Directive.
	<ul style="list-style-type: none"> • <i>Is every port facility notified under 725/2004 within a port covered by this Directive?</i> • <i>Has a boundary for each port been defined? Is every Reg.725 port facility included?</i> • <i>Does this boundary take into account the outcome of the port security assessment?</i> • <i>How/where has the boundary of each port been defined for the purposes of the Directive? In national law (or equivalent) or via the PSP? Verify any boundary defined in national law accords with that in the PSP</i>

Coordination with measures taken in application of Regulation (EC) No 725/2004

Art.4	Member States shall ensure that port security measures introduced by this Directive are closely coordinated with measures taken pursuant to Regulation (EC) No 725/2004.
	<ul style="list-style-type: none"> • To verify coherence between PSP and PFSP measures, in particular : <ul style="list-style-type: none"> ○ Depending on the outcomes of respective security assessments and the security level which is applied, consistency

	<p>between access controls requirements to the port and each port facility as well as screening and searches activities.</p> <ul style="list-style-type: none"> ○ interoperability of CCTV coverages (where applicable):
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Recognised security organisations

Art.11	Member States may appoint recognised security organisations for the purposes specified in this Directive. Recognised security organisations shall fulfil the conditions set out in Annex IV.
Annex IV	<p>A recognised security organisation will be able to demonstrate:</p> <ol style="list-style-type: none"> (1) expertise in relevant aspects of port security; (2) an appropriate knowledge of port operations, including knowledge of port design and construction; (3) an appropriate knowledge of other security relevant operations potentially affecting port security; (4) the capability to assess the likely port security risks; (5) the ability to maintain and improve the port security expertise of its personnel; (6) the ability to monitor the continuing trustworthiness of its personnel; (7) the ability to maintain appropriate measures to avoid unauthorised disclosure of, or access to, security-sensitive material; (8) knowledge of relevant national and international legislation and security requirements; (9) knowledge of current security threats and patterns; (10) the ability to recognise and detect weapons, dangerous substances and devices; (11) the ability to recognise, on a non-discriminatory basis, characteristics and behavioural patterns of persons who are likely to threaten port security; (12) knowledge of techniques used to circumvent security measures; (13) knowledge of security and surveillance equipment and systems and their operational limitations. <p>A recognised security organisation which has made a port security assessment or review of such an assessment for a port is not allowed to establish or review the port security plan for the same port.</p>
	<ul style="list-style-type: none"> • <i>Have RSOs been recognized at the port's level by the Member State?</i> • <i>Are these RSOs already notified to the Commission under Reg. 725?</i> • <i>To verify the process of their recognition– Has the RSO provided evidence of their expertise in respect of port security? has the</i>

	<p><i>Member State issued a formal appointment letter or equivalent, stating their area of competence?</i></p> <ul style="list-style-type: none"> • <i>To verify their mandate and the fact that the MS has given to the RSOs the relevant information on the security environment of the port in order to fulfil their tasks in an efficient way</i> • <i>To verify the control of the Member States on their RSOs.</i> • <i>Check that PSP not drafted by the same RSO as carried out the PSA – at national level check randomly a number of approved PSAs/PSPs. In port being monitored, carry out same check on PSA/PSP for the port.</i>
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Reviews of port security assessments and port security plans

Art.10	<ol style="list-style-type: none"> 1. Member States shall ensure that port security assessments and port security plans are reviewed as appropriate. They shall be reviewed at least once every five years. 2. The scope of the review shall be that of Articles 6 or 7, as appropriate.
	<ul style="list-style-type: none"> • To be checked on a regular basis and at least in 2012 for the compulsory five-years period. • Has Member State laid down rules on frequency of reviews and on what is a review – a new PSA/PSP or a simple verification that nothing needs to change?

Monitoring of the port security plan

Art.7	<ol style="list-style-type: none"> 6. Member States shall ensure that the implementation of port security plans is monitored. The monitoring shall be coordinated with other control activities carried out in the port.
	<ul style="list-style-type: none"> • <i>To be verified by evidence (reports)</i> • <i>Check by whom? How? Powers?</i>

Implementation and conformity checking

Art.13	<ol style="list-style-type: none"> 1. Member States shall set up a system ensuring adequate and regular supervision of the port security plans and their implementation.
	<ul style="list-style-type: none"> • <i>To be verified by evidence (reports)</i> • <i>Who does it (adequate staffing level)?When ?(Periodicity, relevant period vs activity of the port, etc..) Verify that they have the</i>

	<i>power to require remedial action if not in compliance with PSP.</i>
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Security levels

Art.8	<p>1. Member States shall introduce a system of security levels for ports or parts of ports.</p> <p>2. There shall be three security levels, as defined in Regulation (EC) No 725/2004:</p> <ul style="list-style-type: none"> — ‘Security level 1’ means the level for which minimum appropriate protective security measures shall be maintained at all times; — ‘Security level 2’ means the level for which appropriate additional protective security measures shall be maintained for a period of time as a result of a heightened risk of a security incident; — ‘Security level 3’ means the level for which further specific protective security measures shall be maintained for a limited period of time when a security incident is probable or imminent, although it may not be possible to identify the specific target. <p>3. Member States shall determine the security levels in use for each port or part of a port. At each security level, a Member State may determine that different security measures are to be implemented in different parts of the port depending on the findings of the port security assessment.</p> <p>4. Member States shall communicate to the appropriate person or persons the security level in force for each port or part of a port as well as any changes thereto.</p>
	<ul style="list-style-type: none"> • <i>Who establishes the security level? On which basis?</i> • <i>According to which procedure a change of the level is communicated to the interested parties?</i> • <i>Does the Member State differentiate between Security Levels for ports and PFs? Could a PF within a port be at a higher SL than the port as a whole?</i>

Confidentiality and dissemination of information

Art.16	1. In applying this Directive, the Commission shall take, in accordance with Decision 2001/844/EC, ECSC, Euratom (1), appropriate measures to protect information subject to the requirement of confidentiality to which it has access or which is communicated to it
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	<p>by Member States.</p> <p>Member States shall take equivalent measures in accordance with relevant national legislation.</p> <p>2. Any personnel carrying out security inspections, or handling confidential information related to this Directive, shall have an appropriate level of security vetting by the Member State of which the person concerned is a national.</p>
	<ul style="list-style-type: none"> • Which physical measures have been taken? Verify they are in accordance with national legislation. • Question concerning the vetting? Ask to see security clearance of the people from the national administration assisting the monitoring. The same request should be made in the port being monitored.

Penalties

Art.17	Member States shall ensure that effective, proportionate and dissuasive penalties are introduced for infringements of the national provisions adopted pursuant to this Directive.
	To check the relevant national legislation

II. At the port level

Port security authority

Art.5	<ol style="list-style-type: none"> 1. Member States shall designate a port security authority for each port covered by this Directive. A port security authority may be designated for more than one port. 2. The port security authority shall be responsible for the preparation and implementation of port security plans based on the findings of port security assessments. 3. Member States may designate a ‘competent authority for maritime security’ provided for under Regulation (EC) No 725/2004 as port security authority.
	<ul style="list-style-type: none"> • AT NATIONAL LEVEL, verify that a port security authority has been appointed for every port identified under article 2 – this can be done by randomly checking for a number of ports; • AT PORT LEVEL, identify Port Security Authority and confirm formal designation by Member State at national authority level; • To verify if and to what extent the Port Security Authority fulfils or has fulfilled its obligation in the preparation and implementation of the PSP based on the findings of the PSA

Port security officer

Art.9	<ol style="list-style-type: none"> 1. A port security officer shall be approved by the Member State concerned for each port. Each port shall, where practicable, have a different port security officer, but may, if appropriate, share a security officer. 2. Port security officers shall fulfil the role of point of contact for port security related issues. 3. Where the port security officer is not the same as the port facility(ies) security officer(s) under Regulation (EC) No 725/2004, close cooperation between them shall be ensured.
	<ul style="list-style-type: none"> • AT NATIONAL LEVEL, To verify if a PSO has been designated for every port. • AT PORT LEVEL, verify designation of PSO • To verify the process of designation • To verify if and how he plays the role of point of contact with the authorities, the PF operators, the PFSO and the port users

	<ul style="list-style-type: none"> • <i>To verify which type of collaboration has been established with the PFSOs and on which basis</i>
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Port security assessment

Art.6	<ol style="list-style-type: none"> 1. Member States shall ensure that port security assessments are carried out for the ports covered by this Directive. These assessments shall take due account of the specificities of different sections of a port and, where deemed applicable by the relevant authority of the Member State, of its adjacent areas if these have an impact on security in the port and shall take into account the assessments for port facilities within their boundaries as carried out pursuant to Regulation (EC) No 725/2004. 2. Each port security assessment shall be carried out taking into account as a minimum the detailed requirements laid down in Annex I. 3. Port security assessments may be carried out by a recognised security organisation as referred to in Article 11. 4. Port security assessments shall be approved by the Member State concerned.
	<ul style="list-style-type: none"> • <i>Confirm that a Port Security Assessment has been carried out for the port being monitored and that this PSA has been approved by the Member State;</i> • <i>Where an RSO has been used, confirm that the Authority has received the PSA and submitted it to the Member State for approval.</i>

Content of the Port security assessment

Annex I	<p>The port security assessment is the basis for the port security plan and its implementation. The port security assessment will cover at least:</p> <ul style="list-style-type: none"> — identification and evaluation of important assets and infrastructure which it is important to protect; — identification of possible threats to the assets and infrastructure and the likelihood of their occurrence, in order to establish and prioritise security measures; — identification, selection and prioritisation of counter-measures and procedural changes and their level of effectiveness in reducing
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vulnerability; and

- identification of weaknesses, including human factors in the infrastructure, policies and procedures.

For this purpose the assessment will at least:

- identify all areas which are relevant to port security, thus also defining the port boundaries. This includes port facilities which are already covered by Regulation (EC) No 725/2004 and whose risk assessment will serve as a basis;
- identify security issues deriving from the interface between port facility and other port security measures;
- identify which port personnel will be subject to background checks and/or security vetting because of their involvement in high-risk areas;
- subdivide, if useful, the port according to the likelihood of security incidents. Areas will be judged not only upon their direct profile as a potential target, but also upon their potential role of passage when neighbouring areas are targeted;
- identify risk variations, e.g. those based on seasonality;
- identify the specific characteristics of each sub-area, such as location, accesses, power supply, communication system, ownership and users and other elements considered security-relevant;
- identify potential threat scenarios for the port. The entire port or specific parts of its infrastructure, cargo, baggage, people or transport equipment within the port can be a direct target of an identified threat;
- identify the specific consequences of a threat scenario. Consequences can impact on one or more sub-areas. Both direct and indirect consequences will be identified. Special attention will be given to the risk of human casualties;
- identify the possibility of cluster effects of security incidents;
- identify the vulnerabilities of each sub-area;

	<ul style="list-style-type: none"> — identify all organisational aspects relevant to overall port security, including the division of all security-related authorities, existing rules and procedures; — identify vulnerabilities of the overarching port security related to organisational, legislative and procedural aspects; — identify measures, procedures and actions aimed at reducing critical vulnerabilities. Specific attention will be paid to the need for, and the means of, access control or restrictions to the entire port or to specific parts of a port, including identification of passengers, port employees or other workers, visitors and ship crews, area or activity monitoring requirements, cargo and luggage control. Measures, procedures and actions will be consistent with the perceived risk, which may vary between port areas; — identify how measures, procedures and actions will be reinforced in the event of an increase of security level; — identify specific requirements for dealing with established security concerns, such as ‘suspect’ cargo, luggage, bunker, provisions or persons, unknown parcels, known dangers (e.g. bomb). These requirements will analyse desirability conditions for either clearing the risk where it is encountered or after moving it to a secure area; — identify measures, procedures and actions aimed at limiting and mitigating consequences; — identify task divisions allowing for the appropriate and correct implementation of the measures, procedures and actions identified; — pay specific attention, where appropriate, to the relationship with other security plans (e.g. port facility security plans) and other existing security measures. Attention will also be paid to the relationship with other response plans (e.g. oil spill response plan, port contingency plan, medical intervention plan, nuclear disaster plan, etc.); — identify communication requirements for implementation of the measures and procedures; — pay specific attention to measures to protect security-sensitive information from disclosure; — identify the need-to-know requirements of all those directly involved as well as, where appropriate, the general public.
	Items to be checked in the PSA

Port security plan

Art.7	<ol style="list-style-type: none"> 1. Subject to the findings of port security assessments, Member States shall ensure that port security plans are developed, maintained and updated. Port security plans shall adequately address the specificities of different sections of a port and shall integrate the security plans for port facilities within their boundaries established pursuant to Regulation (EC) No 725/2004. 2. Port security plans shall identify, for each of the different security levels referred to in Article 8: <ol style="list-style-type: none"> (a) the procedures to be followed; (b) the measures to be put in place; (c) the actions to be undertaken. 3. Each port security plan shall take into account as a minimum the detailed requirements specified in Annex II. Where, and to the extent appropriate, the port security plan shall in particular include security measures to be applied to passengers and vehicles set for embarkation on seagoing vessels which carry passengers and vehicles. In the case of international maritime transport services, the Member States concerned shall cooperate in the security assessment. 4. Port security plans may be developed by a recognised security organisation as referred to in Article 11. 5. Port security plans shall be approved by the Member State concerned before implementation.
	<ul style="list-style-type: none"> • <i>Who has prepared the PSP?</i> • <i>Verify that the PSP has been approved at Member State level.</i> • <i>Where an RSO has been used, verify that the RSO that prepared the PSP did not carry out the PSA (see Annex IV)</i>

Content of a port security plan

<p>Annex II</p>	<p>The port security plan sets out the port's security arrangements. It will be based on the findings of the port security assessment. It will clearly set out detailed measures. It will contain a control mechanism allowing, where necessary, for appropriate corrective measures to be taken.</p> <p>The port security plan will be based on the following general aspects:</p> <ul style="list-style-type: none"> — defining all areas relevant to port security. Depending on the port security assessment, measures, procedures and actions may vary from sub-area to sub-area. Indeed, some sub-areas may require stronger preventive measures than others. Special attention will be paid to the interfaces between sub-areas, as identified in the port security assessment; — ensuring coordination between security measures for areas with different security characteristics; — providing, where necessary, for varying measures both with regard to different parts of the port, changing security levels, and specific intelligence; — identifying an organisational structure supporting the enhancement of port security. <p>Based on those general aspects, the port security plan will attribute tasks and specify work plans in the following fields:</p> <ul style="list-style-type: none"> — access requirements. For some areas, requirements will only enter into force when security levels exceed minimal thresholds. All requirements and thresholds will be comprehensively included in the port security plan;
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- ID, luggage and cargo control requirements. Requirements may or may not apply to sub-areas; requirements may or may not apply in full to different sub-areas. Persons entering or within a sub-area may be liable to control. The port security plan will appropriately respond to the findings of the port security assessment, which is the tool by which the security requirements of each sub-area and at each security level will be identified. When dedicated identification cards are developed for port security purposes, clear procedures will be established for the issue, the use-control and the return of such documents. Such procedures will take into account the specificities of certain groups of port users allowing for dedicated measures in order to limit the negative impact of access control requirements. Categories will at least include seafarers, authority officials, people regularly working in or visiting the port, residents living in the port and people occasionally working in or visiting the port;
- liaison with cargo control, baggage and passenger control authorities. Where necessary, the plan is to provide for the linking up of the information and clearance systems of these authorities, including possible pre-arrival clearance systems;
- procedures and measures for dealing with suspect cargo, luggage, bunker, provisions or persons, including identification of a secure area; as well as for other security concerns and breaches of port security;
- monitoring requirements for sub-areas or activities within sub-areas. Both the need for technical solutions and the solutions themselves will be derived from the port security assessment;
- signposting. Areas with access and/or control requirements will be properly signposted. Control and access requirements will appropriately take into account all relevant existing law and practices. Monitoring of activities will be appropriately indicated if national legislation so requires;
- communication and security clearance. All relevant security information will be properly communicated according to security clearance standards included in the plan. In view of the sensitivity of some information, communication will be based on a need-to-know basis, but it will include where necessary procedures for communications addressed to the general public. Security clearance standards will form part of the plan and are aimed at protecting security sensitive information against unauthorised disclosure;
- reporting of security incidents. With a view to ensuring a rapid response, the port security plan will set out clear reporting requirements to the port security officer of all security incidents and/or to the port security authority;
- integration with other preventive plans or activities. The plan will specifically deal with integration with other preventive and

	<p>control activities in force in the port;</p> <ul style="list-style-type: none"> — integration with other response plans and/or inclusion of specific response measures, procedures and actions. The plan will detail interaction and coordination with other response and emergency plans. Where necessary conflicts and shortcomings will be resolved; — training and exercise requirements; — operational port security organisation and working procedures. The port security plan will detail the port security organisation, its task division and working procedures. It will also detail the coordination with port facility and ship security officers, where appropriate. It will delineate the tasks of the port security committee, if this exists; — procedures for adapting and updating the port security plan.
	<p>Items to be checked in the PSP. In particular the monitoring should address the coordination and interaction between port security and wider authorities, although Commission monitoring will not address the details of response plans in ports falling outside the scope of Directive 2005/65.</p>

Exercises

Art.7	7. Member States shall ensure that adequate exercises are performed, taking into account the basic security training exercise requirements listed in Annex III.
Annex III	<p>BASIC SECURITY TRAINING EXERCISE REQUIREMENTS</p> <p>Various types of training exercises which may involve participation of port facility security officers, in conjunction with the relevant authorities of Member States, company security officers, or ship security officers, if available, will be carried out at least once each calendar year with no more than 18 months elapsing between the training exercises.</p> <p>Requests for the participation of company security officers or ships security officers in joint training exercises will be made bearing in mind the security and work implications for the ship. These training exercises will test communication, coordination, resource availability and response. These training exercises may be:</p> <ol style="list-style-type: none"> (1) full scale or live; (2) tabletop simulation or seminar; or (3) combined with other exercises held such as emergency response or other port State authority exercises.
	<ul style="list-style-type: none"> • <i>To be verified by evidence (reports)</i>