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A7-0255/ 001-058

## **AMENDMENTS 001-058**

by the Committee on Transport and Tourism

### **Report**

Dominique Riquet

A7-0255/2013

### **Marine equipment**

Proposal for a directive (COM(2012)0772 – C7-0414/2012 – 2012/0358(COD))

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## **Amendment 1**

### **Proposal for a directive**

#### **Recital 4**

##### *Text proposed by the Commission*

(4) There are *other* various instruments of Union law which lay down requirements and conditions, inter alia in order to ensure the free movement of goods within the *Internal Market* or for environmental purposes, for certain products which are similar in nature to equipment used on board ships, but which do not meet the international standards – which may substantially differ from the internal legislation of the Union and are in constant evolution. *These* products cannot therefore be certified by the Member States in accordance with the relevant international maritime safety conventions. Equipment to be placed onboard EU ships in accordance with international safety standards should therefore be regulated exclusively by this Directive, which should in any event be considered the *lex specialis*; furthermore, a specific marking should be established to indicate that the equipment bearing that

##### *Amendment*

(4) There are various *other* instruments of Union law which lay down requirements and conditions, inter alia in order to ensure the free movement of goods within the *internal market* or for environmental purposes, for certain products which are similar in nature to equipment used on board ships but which do not meet the international standards – which may substantially differ from the internal legislation of the Union and are in constant evolution. *Those* products cannot therefore be certified by the Member States in accordance with the relevant international maritime safety conventions. Equipment to be placed onboard Union ships in accordance with international safety standards should therefore be regulated exclusively by this Directive, which should in any event be considered the *lex specialis*; furthermore, a specific marking should be established to indicate that the

mark complies with the requirements laid down in the relevant international conventions and instruments.

equipment bearing that mark complies with the requirements laid down in the relevant **fully ratified** international conventions and instruments.

*Justification*

*International conventions are developed by the IMO and then undergo a thorough ratification process. Until this process is finalised, the convention does not apply to members. The proposed measure from the Commission indicates that new conventions would become applicable within the EU before ratification by the IMO.*

**Amendment 2**

**Proposal for a directive  
Recital 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***(4a) As well as setting out detailed performance and testing standards for marine equipment, the international instruments sometimes allow for measures that deviate from the prescriptive requirements but which, under certain conditions, are suitable to satisfy the intent of those requirements. The International Convention for the Safety of Life at Sea (SOLAS), 1974, allows for alternative designs and arrangements which could be applied by individual Member States acting under their own responsibility.***

*Justification*

*To clarify that Member States are still permitted to apply alternative design and arrangements in accordance with SOLAS, outside the scope of the Directive.*

**Amendment 3**

**Proposal for a directive  
Recital 11 b (new)**

*Text proposed by the Commission*

*Amendment*

***(11b) When the surveillance authorities of a Member State consider that marine equipment covered by this Directive is liable to present a risk to maritime safety,***

*environment or health, they should carry out tests on the equipment concerned. In cases where a risk is detected, the Member State should call upon the economic operator concerned to take the appropriate corrective action, or even to withdraw or recall the equipment concerned.*

#### Amendment 4

##### Proposal for a directive

##### Recital 13

###### *Text proposed by the Commission*

(13) It is necessary to ensure that the objectives of this Directive are not impaired by shortcomings in the applicable testing standards or *in case* the IMO failed to produce appropriate standards for marine equipment falling *under* the scope of this Directive. It is also necessary to adopt appropriate technical criteria *so that* electronic tags *can be affixed and used* in a safe and reliable way. Moreover, it is necessary to keep up-to-date a number of non-essential elements of this Directive, namely the list of international conventions laying down safety requirements for marine equipment contained in *Article 2(3)* and the references to specific standards contained in Annex III. The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should therefore be delegated to the Commission in respect of the adoption, on an interim basis, of harmonised technical specifications and testing standards and in order to amend the said lists and references. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

###### *Amendment*

(13) It is necessary to ensure that the objectives of this Directive are not impaired by shortcomings in the applicable testing standards or *in the event of failure* by the IMO to produce appropriate standards for marine equipment falling *within* the scope of this Directive. It is also necessary to adopt appropriate technical criteria *making it possible to affix and use* electronic tags in a safe and reliable way. Moreover, it is necessary to keep up-to-date a number of non-essential elements of this Directive, namely the list of international conventions laying down safety requirements for marine equipment contained in *point (3) of Article 2* and the references to specific standards contained in Annex III. The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should therefore be delegated to the Commission in respect of the adoption, on an interim basis, of harmonised technical specifications and testing standards and in order to amend the said lists and references. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. *The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament*

*and to the Council.*

*Justification*

*In line with delegating powers to the Commission, it is in turn important to ensure that the Commission keeps Parliament appropriately informed and provides the relevant documents. This amendment takes account of the new standard wording for delegated acts.*

**Amendment 5**

**Proposal for a directive**

**Recital 14**

*Text proposed by the Commission*

*Amendment*

***(14) The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.***

***deleted***

*Justification*

*Included in the amendment to Recital 13 which takes account of the new standard wording for delegated acts.*

**Amendment 6**

**Proposal for a directive**

**Article 2 – point 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

(3) ‘international conventions’ means the conventions, together with their Protocols and Codes of mandatory application, adopted under the auspices of the International Maritime Organization (IMO) which lay down specific requirements for the approval by the flag State of equipment to be placed on board ships. This includes:

(3) ‘international conventions’ means the conventions, together with their Protocols and Codes of mandatory application, adopted under the auspices of the International Maritime Organization (IMO) ***and ratified by the Member States*** which lay down specific requirements for the approval by the flag State of equipment to be placed on board ships. This includes:

*Justification*

*International conventions are developed by the IMO and then undergo a thorough ratification process. Until this process is finalised, the convention does not apply to members. The proposed measure from the Commission indicates that new conventions would become applicable within the EU before ratification by the IMO.*

## Amendment 7

### Proposal for a directive

#### Article 2 – point 3 – first indent

*Text proposed by the Commission*

*Amendment*

*– the 1966 International Convention on Load Lines (LL66),* **deleted**

#### *Justification*

*The 1966 International Convention on Load Lines (LL 66) contains no provisions on marine equipment and therefore should not be included in this definition.*

## Amendment 8

### Proposal for a directive

#### Article 2 – point 3 – indent 5

*Text proposed by the Commission*

*Amendment*

*– the 2004 International Convention for the Control and Management of Ships' Ballast Water and Sediments (BWMC);* **deleted**

#### *Justification*

*The BWMC Convention has not yet entered into force. Vessels flying a European flag should not be compelled to comply with it, as this would undermine their competitiveness.*

## Amendment 9

### Proposal for a directive

#### Article 2 – point 17

*Text proposed by the Commission*

*Amendment*

(17) 'conformity assessment' means the process demonstrating whether marine equipment complies with the requirements laid down in this Directive, ***in accordance with Article 15;***

(17) 'conformity assessment' means the process ***carried out by the notified bodies, in accordance with Article 15,*** demonstrating whether marine equipment complies with the requirements laid down in this Directive;

#### *Justification*

*The amendment is intended to clarify who performs the conformity assessment, as this is not clear from Article 15.*

## Amendment 10

### Proposal for a directive

#### Article 3 – paragraph 1

*Text proposed by the Commission*

1. This Directive shall apply to equipment to be placed on board *an EU* ship and for which the approval of the flag State administration is required by the international instruments.

*Amendment*

1. This Directive shall apply to equipment to be placed on board *a Union* ship and for which the approval of the flag State administration is required by the international instruments, ***regardless of whether the ship is located in the Union at the time when it is fitted with the equipment. It shall not apply to equipment already on board at the time of the entry into force of this Directive.***

*Justification*

*In the interests of legal clarity, it needs to be stipulated that equipment already placed on board when the Directive comes into force does not fall within its scope.*

## Amendment 11

### Proposal for a directive

#### Article 4 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. For the purposes of paragraph 1, in the case of new construction, Member States shall use the date when the keel was laid, or the date when the ship arrived at a similar stage of construction, as the reference date for determining the applicable requirements.***

*Justification*

*Dealing with the concerns of the EU industry, which requires a clear time framework avoiding the situation in which equipment which met the MED standards at the time it was supplied after the keel laying would be no longer compliant at the time of the installation on board, due to changes made to the technical construction standards in the intervening period.*

## Amendment 12

### Proposal for a directive

#### Article 4 – paragraph 3

*Text proposed by the Commission*

3. The requirements and standards referred to in paragraphs 1 and 2 shall be implemented in a uniform manner, in accordance with Article 35(2) and (3).

*Amendment*

3. The requirements and standards referred to in paragraphs 1 and 2 shall be implemented in a uniform manner, in accordance with Article 35(2) and (3).  
***Manufacturers shall be able to access the text of those requirements and standards free of charge.***

*Justification*

*If it is compulsory to apply a standard, it should be possible to consult that standard free of charge.*

**Amendment 13**

**Proposal for a directive  
Article 4 – paragraph 4**

*Text proposed by the Commission*

4. The international instruments, with the exception of testing standards, shall apply in their up-to-date version, without prejudice to Article 5 of Regulation (EC) No 2099/2002 of the European Parliament and of the Council.

*Amendment*

4. The international instruments, with the exception of testing standards, shall apply in their up-to-date version, without prejudice to Article 5 of Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS), ***in accordance with point (c) of the first subparagraph of Article 35(5).***

**Amendment 14**

**Proposal for a directive  
Article 7 – paragraph 3**

*Text proposed by the Commission*

3. Marine equipment which is considered equivalent pursuant to this Article shall be given a certificate by the Member State which shall at all times be carried with the equipment. It shall give the flag Member State's permission for the equipment to be ***placed*** on board the ship and ***imposes*** any restrictions or ***lays*** down any provisions relating to the use of the equipment.

*Amendment*

3. Marine equipment which is considered equivalent pursuant to this Article shall be given a certificate by the Member State which shall at all times be carried with the equipment. It shall give the flag Member State's permission for the equipment to be ***kept*** on board the ship and ***impose*** any restrictions or ***lay*** down any provisions relating to the use of the equipment.

## *Justification*

*The equipment for which the flag Member State's permission is required is already in place on board.*

### **Amendment 15**

#### **Proposal for a directive Article 8 – paragraph 2**

##### *Text proposed by the Commission*

2. In the absence of appropriate international standards developed by the IMO for a specific item of marine equipment, the Commission shall be empowered to adopt, by means of delegated acts in accordance with Article 37, harmonised technical specifications and testing standards for that specific item of marine equipment *when it is* necessary in order to remove an unacceptable threat to safety or to the environment. Those specifications and standards shall apply on an interim basis **and** until such time as the IMO has adopted appropriate standards.

##### *Amendment*

2. In the absence of appropriate international standards developed by the IMO for a specific item of marine equipment, the Commission shall be empowered to adopt delegated acts in accordance with Article 37 *concerning* harmonised technical specifications and testing standards for that specific item of marine equipment *whenever* necessary in order to remove an unacceptable threat to safety or to the environment. Those specifications and standards shall apply on an interim basis until such time as the IMO has adopted appropriate standards.

### **Amendment 16**

#### **Proposal for a directive Article 10 – paragraph 1**

##### *Text proposed by the Commission*

1. The wheel mark **shall be affixed** visibly, legibly and indelibly to the product or to its data plate. Where that is not possible or not warranted on account of the nature of the product, it shall be affixed to the packaging and to the accompanying documents.

##### *Amendment*

1. The **manufacturer shall affix the** wheel mark visibly, legibly and indelibly to the product or to its data plate. Where that is not possible or not warranted on account of the nature of the product, it shall be affixed to the packaging and to the accompanying documents.

### **Amendment 17**

#### **Proposal for a directive Article 11 – paragraph 1**

##### *Text proposed by the Commission*

1. **The wheel mark may be supplemented**

##### *Amendment*

1. **Manufacturers may, as soon as**



*or replaced by* an appropriate and reliable form of electronic tag. In such case, Articles 9 and 10 shall apply, as appropriate, *mutatis mutandi*.

*possible, use* an appropriate and reliable form of electronic tag ***instead of, or in addition to, the wheel mark***. In such a case, Articles 9 and 10 shall apply, as appropriate, *mutatis mutandi*.

#### *Justification*

*Notwithstanding the possible costs entailed, a more proactive approach needs to be taken to electronic tagging, which will facilitate the inspection of ships berthing in EU ports and will help to combat counterfeiting more effectively.*

### **Amendment 18**

#### **Proposal for a directive Article 12 – paragraph 3**

##### *Text proposed by the Commission*

3. Where compliance of marine equipment with the applicable requirements has been demonstrated by the conformity assessment procedure, manufacturers shall draw up *an EU* declaration of conformity in accordance with Article 16 and affix the conformity marking in accordance with **Article 9**.

##### *Amendment*

3. Where compliance of marine equipment with the applicable requirements has been demonstrated by the conformity assessment procedure, manufacturers shall draw up *a Union* declaration of conformity in accordance with Article 16 and affix the conformity marking in accordance with **Articles 9 and 10**.

#### *Justification*

*Article 10 is also concerned with conformity marking.*

### **Amendment 19**

#### **Proposal for a directive Article 12 – paragraph 4**

##### *Text proposed by the Commission*

4. Manufacturers shall keep the technical documentation and the *EU* declaration of conformity referred to in Article 16 for a period of time commensurate with the level of risk, and in no case less than the expected lifecycle of the marine equipment, after the wheel mark has been affixed on the last unit.

##### *Amendment*

4. Manufacturers shall keep the technical documentation and the *Union* declaration of conformity referred to in Article 16 for a period of time commensurate with the level of risk, and in no case less than the expected lifecycle of the marine equipment, ***and in every case for at least 10 years***, after the wheel mark has been affixed on the last unit.

### *Justification*

*The existing Directive 96/98/EC on marine equipment already stipulates (in Annex B, point 9) – as do the directives based on the new legislative framework for the marketing of products – that technical documentation and EU declaration of conformity certificates must be kept for at least 10 years. The same period of time should be stipulated here in order to avoid differences of interpretation.*

### **Amendment 20**

#### **Proposal for a directive**

#### **Article 12 – paragraph 6**

##### *Text proposed by the Commission*

6. Manufacturers shall ensure that their products bear a type, batch or serial number or other element allowing their identification, or, where the size or nature of the product does not allow it, that the required information is provided on the packaging *or* in a document accompanying the product.

##### *Amendment*

6. Manufacturers shall ensure that their products bear a type, batch or serial number or other element allowing their identification, or, where the size or nature of the product does not allow it, that the required information is provided on the packaging *and* in a document accompanying the product.

### *Justification*

*Brings the text into line with the provisions on affixing the wheel mark and those of Article 10, giving a stronger guarantee that it will be possible to locate the requisite information.*

### **Amendment 21**

#### **Proposal for a directive**

#### **Article 12 – paragraph 7**

##### *Text proposed by the Commission*

7. Manufacturers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where that is not possible, on its packaging *or* in a document accompanying the product. The address must indicate a single point at which the manufacturer can be contacted.

##### *Amendment*

7. Manufacturers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where that is not possible, on its packaging *and* in a document accompanying the product. The address must indicate a single point at which the manufacturer can be contacted.

### *Justification*

*Brings the text into line with the provisions on affixing the wheel mark and those of Article 10, giving a stronger guarantee that it will be possible to locate the requisite information.*

## Amendment 22

### Proposal for a directive Article 12 – paragraph 8

#### *Text proposed by the Commission*

8. Manufacturers shall ensure that the product is accompanied by instructions and all necessary information for safe installation on board and safe use of the product, including limitations of use, if any, in a language which can be easily understood by the end-users, together with any other documentation required by the international instruments or testing standards.

#### *Amendment*

8. Manufacturers shall ensure that the product is accompanied by instructions and all necessary information for safe installation on board and safe use of the product, including limitations of use, if any, in **English or in** a language which can be easily understood by the end-users, together with any other documentation required by the international instruments or testing standards.

#### *Justification*

*Since English is the usual working language in shipping, it should be sufficient to provide the product information at least in English. The phrase ‘a language which can be [easily] understood by the end-users’ is too vague and could lead to considerable extra costs.*

## Amendment 23

### Proposal for a directive Article 12 – paragraph 9

#### *Text proposed by the Commission*

9. Manufacturers who consider or have reason to believe that a product which they have placed on the market or on board EU ships is not in conformity with the applicable requirements in the international instruments as referred to in Article 4, shall immediately take the necessary corrective measures to bring that product into conformity, **to** withdraw it or recall it, if appropriate. In addition, where the product presents a risk, manufacturers shall immediately inform the competent national authorities of the Member States, giving details, in particular, of the non-compliance and of any corrective measures taken.

#### *Amendment*

9. Manufacturers who consider or have reason to believe that a product which they have placed on the market or on board EU ships is not in conformity with the applicable requirements in the international instruments as referred to in Article 4, shall immediately take the necessary corrective measures to bring that product into conformity **and shall** withdraw it or recall it if appropriate. In addition, where the product presents a risk, manufacturers shall immediately inform the competent national authorities of the Member States, giving details, in particular, of the non-compliance and of any corrective measures taken.

## Amendment 24

### Proposal for a directive

## Article 12 – paragraph 10

*Text proposed by the Commission*

10. Manufacturers shall, further to a reasoned request from a competent national authority, promptly provide it with all the information and documentation necessary to demonstrate the conformity of the product, in a language which can be easily understood by that authority, and grant to that authority access to their premises for market surveillance purposes in accordance with Article 19 of Regulation (EC) No 765/2008. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by products which they have placed on the market.

*Amendment*

10. Manufacturers shall, further to a reasoned request from a competent national authority, promptly provide it with all the information and documentation necessary to demonstrate the conformity of the product, in **English or in** a language which can be easily understood by that authority, and grant to that authority access to their premises for market surveillance purposes in accordance with Article 19 of Regulation (EC) No 765/2008. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by products which they have placed on the market.

*Justification*

*Since English is the usual working language in shipping, it should be sufficient to provide the product information at least in English. The phrase ‘a language which can be [easily] understood by the end-users’ is too vague and could lead to considerable extra costs.*

## Amendment 25

### Proposal for a directive Article 13 – paragraph 1

*Text proposed by the Commission*

1. A manufacturer who is not located in the territory of a Member State shall, by a written mandate, appoint an authorised representative.

*Amendment*

1. A manufacturer who is not located in the territory of a Member State shall, by a written mandate, appoint an authorised representative **within the Union. A manufacturer who is not established within the territory of a Member State or in a State of the European Economic Area shall provide the name and contact address of his authorised representative.**

*Justification*

*The contact details of the authorized representative should be included in the product information. Manufacturers located in the territory of the EEA should not be obliged to appoint an authorized representative. This amendment also makes clear that one authorised representative in the Community is sufficient and that it is not necessary to appoint one for each Member State.*

## Amendment 26

### Proposal for a directive

#### Article 13 – paragraph 3 – point a

*Text proposed by the Commission*

(a) keep the EU declaration of conformity and the technical documentation at the disposal of national surveillance authorities for a period of time commensurate with the level of risk, and in no case less than the expected lifecycle of the marine equipment, after the wheel mark has been affixed on the last unit;

*Amendment*

(a) keep the EU declaration of conformity and the technical documentation at the disposal of national surveillance authorities for a period of time commensurate with the level of risk, and in no case less than the expected lifecycle of the marine equipment, **and in every case for at least 10 years**, after the wheel mark has been affixed on the last unit;

*Justification*

*The existing Directive 96/98/EC on marine equipment already stipulates (in Annex B, point 9) – as do the directives based on the new legislative framework for the marketing of products – that technical documentation and EU declaration of conformity certificates must be kept for at least 10 years. The same period of time should be stipulated here in order to avoid differences of interpretation.*

## Amendment 27

### Proposal for a directive

#### Article 14 – paragraph 1

*Text proposed by the Commission*

1. Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where that is not possible, on its packaging **or** in a document accompanying the product.

*Amendment*

1. Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where that is not possible, on its packaging **and** in a document accompanying the product.

*Justification*

*Brings the text into line with the provisions on affixing the wheel mark and those of Article 10, giving a stronger guarantee that it will be possible to locate the requisite information.*

## Amendment 28

### Proposal for a directive

#### Article 14 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Importers and distributors shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of a product in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by products which they have placed on the market.

2. Importers and distributors shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of a product in **English or in** a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by products which they have placed on the market.

#### *Justification*

*Since English is the usual working language in shipping, it should be sufficient to provide the product information at least in English. The phrase 'a language which can be [easily] understood by the end-users' is too vague and could lead to considerable extra costs.*

### **Amendment 29**

#### **Proposal for a directive**

#### **Article 15 – paragraph 2 – introductory part**

##### *Text proposed by the Commission*

2. Member States shall ensure that the manufacturer or his authorized representative *carry* out the conformity assessment, for a specific item of marine equipment, by using one of the options provided by means of implementing acts adopted by the Commission in accordance with the examination procedure referred to in Article 38(3), from among one of the following procedures:

##### *Amendment*

2. Member States shall ensure that the manufacturer or his authorised representative *carries* out the conformity assessment, **through a notified body**, for a specific item of marine equipment, by using one of the options provided by means of implementing acts adopted by the Commission in accordance with the examination procedure referred to in Article 38(3), from among one of the following procedures:

### **Amendment 30**

#### **Proposal for a directive**

#### **Article 15 – paragraph 2 – point a – indent 1**

##### *Text proposed by the Commission*

– production-quality assurance (module D);

##### *Amendment*

– production-quality assurance (module D); **or**

#### *Justification*

*It is common practice for Modules B + D, or B + E, or B + F to be applied.*

## Amendment 31

### Proposal for a directive Article 15 – paragraph 3

*Text proposed by the Commission*

3. The Commission shall keep an up-to-date list of approved marine equipment and applications withdrawn or refused and shall make it available to interested parties.

*Amendment*

3. The Commission shall keep an up-to-date list of approved marine equipment and applications withdrawn or refused and shall make it available to interested parties ***via the information system that it has established for such purposes.***

*Justification*

*There already exists a system established by the Commission for disseminating information about the approval or refusal of applications submitted to it in respect of marine equipment, so reference to that system should be made here.*

## Amendment 32

### Proposal for a directive Article 16 – paragraph 2

*Text proposed by the Commission*

2. The EU declaration of conformity shall follow the model structure set out in Annex III to Decision No 768/2008/EC. It shall contain the elements specified in the relevant modules set out in Annex II to this Directive and shall be continuously updated.

*Amendment*

2. The EU declaration of conformity shall follow the model structure set out in Annex III to Decision No 768/2008/EC. It shall contain the elements specified in the relevant modules set out in Annex II to this Directive and shall be continuously updated, ***regularly and where necessary.***

## Amendment 33

### Proposal for a directive Article 16 – paragraph 3

*Text proposed by the Commission*

3. By drawing up the EU declaration of conformity, the manufacturer shall assume the responsibility and undertake the obligations referred to in ***Article 12(1).***

*Amendment*

3. By drawing up the EU declaration of conformity, the manufacturer shall assume the responsibility and undertake the obligations referred to in ***this Directive.***

## Amendment 34

### Proposal for a directive

## Article 16 – paragraph 4

*Text proposed by the Commission*

4. When marine equipment is placed on board *an EU* ship, a copy of the EU declaration of conformity covering the equipment concerned shall be provided to the ship, and shall be kept on board until the said equipment is removed from the ship. It shall be translated into the language or languages required by the flag State.

*Amendment*

4. When marine equipment is placed on board *a Union* ship, a copy of the EU declaration of conformity covering the equipment concerned shall be provided to the ship, and shall be kept on board until the said equipment is removed from the ship. It shall be ***drawn up in English or*** translated into the language or languages required by the flag State.

*Justification*

*Since English is the usual working language in shipping, it should be sufficient to provide the product information at least in English.*

## Amendment 35

### Proposal for a directive

#### Article 22 – paragraph 4

*Text proposed by the Commission*

4. Where the Commission ascertains that a notified body does not meet or no longer meets the requirements for its notification, it shall inform the notifying Member State accordingly and request it to take the necessary corrective measures, including de-notification if necessary.

*Amendment*

4. Where the Commission ascertains that a notified body does not meet, or no longer meets, the requirements for its notification, it shall inform the notifying Member State accordingly and request it to take the necessary corrective measures, including de-notification if necessary, ***without delay.***

## Amendment 36

### Proposal for a directive

#### Article 24 – paragraph 2

*Text proposed by the Commission*

2. Notified bodies shall provide the Commission and the Member States, on request, with relevant information on issues relating to negative and positive conformity assessment results. Notified bodies shall provide the other notified bodies carrying out conformity assessment activities covering the same products with information concerning ***negative and, on***

*Amendment*

2. Notified bodies shall provide the Commission and the Member States, on request, with relevant information on issues relating to negative and positive conformity assessment results. Notified bodies shall ***upon request*** provide the other notified bodies carrying out conformity assessment activities covering the same products with information concerning ***the***



*request, positive conformity assessment results.*

*applications submitted.*

*Justification*

*The disclosure of information about assessment results is incompatible with the duty of professional secrecy of the employees of the notifying bodies laid down in Annex III.*

**Amendment 37**

**Proposal for a directive**

**Article 25**

*Text proposed by the Commission*

The Commission shall provide for the organisation of *exchange* of experience between the Member States' national authorities responsible for notification policy.

*Amendment*

The Commission shall provide for the organisation of *exchanges* of experience between the Member States' national authorities responsible for policy on notification, ***especially as regards market surveillance.***

*Justification*

*Exchanges between the Member States' authorities must also cover market surveillance.*

**Amendment 38**

**Proposal for a directive**

**Article 27 – paragraph 4**

*Text proposed by the Commission*

4. Where the market surveillance authorities of a Member State intend to carry out sample checks, they may request the manufacturer to make the necessary samples available at its own cost in the territory of that Member State.

*Amendment*

4. Where the market surveillance authorities of a Member State intend to carry out sample checks, they may request the manufacturer to make the necessary samples available at its own cost in the territory of that Member State, ***where it is reasonable and feasible to do so, or to grant the Member State on-the-spot access.***

*Justification*

*Market surveillance measures must continue to be proportionate to their objective so as not to give rise to needless costs for the companies concerned.*

## Amendment 39

### Proposal for a directive

#### Article 28 – paragraph 4 – subparagraph 2

*Text proposed by the Commission*

*They* shall inform the Commission and the other Member States, without delay, of those measures.

*Amendment*

**The market surveillance authorities** shall inform the Commission and the other Member States, without delay, of those measures.

## Amendment 40

### Proposal for a directive

#### Article 28 – paragraph 5 – introductory part

*Text proposed by the Commission*

5. The information referred to in paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant marine equipment, the origin of the product, the nature of the non-compliance alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either:

*Amendment*

5. The information referred to in paragraph 4 **on measures taken by the market surveillance authorities** shall include all available details, in particular the data necessary for the identification of the non-compliant marine equipment, the origin of the product, the nature of the non-compliance alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either:

## Amendment 41

### Proposal for a directive

#### Article 28 – paragraph 7

*Text proposed by the Commission*

7. Where, within four months of receipt of the information referred to in paragraph 4, no objection has been raised by a Member State or by the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.

*Amendment*

7. Where, within four months of receipt of the information referred to in paragraph 4 **on measures taken by the market surveillance authorities**, no objection has been raised by a Member State or by the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.

## Amendment 42

### Proposal for a directive Article 29 – paragraph 6

*Text proposed by the Commission*

6. Where ***the national measure is considered justified and*** the non-compliance of the marine equipment is attributed to shortcomings in the testing standards referred to in Article 4, the Commission may confirm, modify or revoke the said measure by means of implementing acts in accordance with the advisory procedure referred to in Article 38(2). The Commission shall furthermore be empowered to adopt, by means of delegated acts in accordance with the procedure referred to in Article 37, interim harmonised requirements and testing standards for that specific item of marine equipment in order to remove the threat to safety or to the environment pending the modification of the testing standard concerned by the relevant international organisation.

*Amendment*

6. Where the non-compliance of the marine equipment is attributed to shortcomings in the testing standards referred to in Article 4, ***and the Member State takes a safeguard measure,*** the Commission may confirm, modify or revoke the said measure by means of implementing acts in accordance with the advisory procedure referred to in Article 38(2). The Commission shall furthermore be empowered to adopt delegated acts in accordance with the procedure referred to in Article 37 concerning interim harmonised requirements and testing standards for that specific item of marine equipment in order to remove the threat to safety or to the environment pending the modification of the testing standard concerned by the relevant international organisation.

## Amendment 43

### Proposal for a directive Article 30 – title

*Text proposed by the Commission*

Compliant products which present a risk to maritime safety ***or*** to the protection of the environment

*Amendment*

Compliant products which present a risk to maritime safety, to the environment ***or to health***

## Amendment 44

### Proposal for a directive Article 30 – paragraph 1

*Text proposed by the Commission*

1. Where, having performed an evaluation under Article 28(1), a Member State finds that although marine equipment is in compliance with this Directive, it presents

*Amendment*

1. Where, having performed an evaluation under Article 28(1), a Member State finds that although marine equipment is in compliance with this Directive, it presents

a risk to marine safety *or* to the environment, it shall require the relevant economic operator to take all appropriate measures to ensure that the marine equipment concerned, when placed on the market, no longer presents that risk, to withdraw the marine equipment from the market or to recall it within *a* reasonable period, commensurate with the nature of the risk, as it may prescribe.

a risk to marine safety, to the environment *or to health*, it shall require the relevant economic operator to take all appropriate measures to ensure that the marine equipment concerned, when placed on the market, no longer presents that risk, to withdraw the marine equipment from the market or to recall it within *such* reasonable period, commensurate with the nature of the risk, as it may prescribe.

#### Amendment 45

##### Proposal for a directive Article 32 – paragraph 1

###### *Text proposed by the Commission*

1. In exceptional circumstances of technical innovation, the flag State administration may permit marine equipment which does not comply with the conformity assessment procedures to be placed on board *an EU* ship if it is established by trial or otherwise to the satisfaction of the flag State administration that such equipment *is* at least *as effective* as marine equipment which does comply with the conformity-assessment procedures.

###### *Amendment*

1. In exceptional circumstances of technical innovation, the flag State administration may permit marine equipment which does not comply with the conformity assessment procedures to be placed on board *a Union* ship if it is established by trial or otherwise to the satisfaction of the flag State administration that such equipment *meets the objectives of this Directive* at least *as well* as marine equipment which does comply with the conformity-assessment procedures.

#### Amendment 46

##### Proposal for a directive Article 33 – point b

###### *Text proposed by the Commission*

(b) the permission shall be limited to *a short period of time*;

###### *Amendment*

(b) the permission shall be limited to *the period of time, which must be as short as possible, deemed necessary by the flag Member State for the purposes of testing*;

## Amendment 47

### Proposal for a directive Article 35

*Text proposed by the Commission*

#### ***Implementing measures***

1. The Member States shall notify to the Commission the name and contact details of the authorities in charge of the implementation of this Directive. The Commission shall draw up, periodically update and make public a list of *these* authorities.
2. For each item of marine equipment for which the approval of the flag State administration is required by the international conventions, the Commission shall identify by means of ***implementing*** acts the respective design, construction and performance requirements and the testing standards provided for in the international instruments.
3. The Commission may adopt by means of ***implementing*** acts common criteria and detailed procedures for the application of the requirements and testing standards referred to in paragraph (2).
4. The Commission shall, by means of ***implementing*** acts, identify the respective design, construction and performance requirements newly provided for in the international instruments and which apply to equipment placed on board before their adoption in order to ensure that equipment placed on board *of EU* ships complies with the international conventions.
5. The Commission shall set up and maintain a data base containing at least the following information:
  - (a) the list and essential details of the

*Amendment*

#### ***Requirements and monitoring of the system***

1. The Member States shall notify to the Commission the name and contact details of the authorities in charge of the implementation of this Directive. The Commission shall draw up, periodically update and make public a list of *those* authorities ***via the information system that it has established for such purposes.***
2. For each item of marine equipment for which the approval of the flag State administration is required by the international conventions, the Commission shall identify by means of ***delegated*** acts the respective design, construction and performance requirements and the testing standards provided for in the international instruments. ***When adopting those acts, the Commission shall also indicate the date from which those requirements are to apply.***
3. The Commission may adopt by means of ***delegated*** acts common criteria and detailed procedures for the application of the requirements and testing standards referred to in paragraph 2.
4. The Commission shall, by means of ***delegated*** acts, identify the respective design, construction and performance requirements newly provided for in the international instruments and which apply to equipment placed on board before their adoption in order to ensure that equipment placed on board *Union* ships complies with the international conventions.
5. The Commission shall set up and maintain a data base containing at least the following information:
  - (a) the list and essential details of the

conformity certificates issued under this Directive;

(b) the list and essential details of the declarations of conformity issued under this Directive;

(c) an up-to-date list of the applicable international instruments, requirements and testing standards, including any updates becoming applicable by virtue of Article 4(3);

(d) the list and full text of the criteria and procedures referred to in paragraph 3;

(e) the requirements and conditions for electronic tagging referred to in Article 11;

(f) any other useful information with a view to facilitating correct implementation of this Directive by the Member States, the notified bodies and the economic operators.

*This database shall be made accessible to the Member States. It shall also be made available, in whole or in part, to the public for information purposes only.*

***6. The implementing acts referred to in this Article shall be adopted in accordance with the examination procedure referred to in Article 38(3).***

conformity certificates issued under this Directive, ***provided by the notified bodies***;

(b) the list and essential details of the declarations of conformity issued under this Directive, ***provided by the manufacturers***;

(c) an up-to-date list of the applicable international instruments ***and of their contents, of the*** requirements and ***of the*** testing standards, including any updates becoming applicable by virtue of Article 4(3);

(d) the list and full text of the criteria and procedures referred to in paragraph 3;

(e) the requirements and conditions for electronic tagging referred to in Article 11;

(f) any other useful information with a view to facilitating correct implementation of this Directive by the Member States, the notified bodies and the economic operators.

*That database shall be made accessible to the Member States. It shall also be made available, in whole or in part, to the public for information purposes only.*

#### *Justification*

*There already exists a system established by the Commission for disseminating information about the approval or refusal of applications submitted to it in respect of marine equipment, so reference to that system should be made here.*

#### **Amendment 48**

##### **Proposal for a directive**

##### **Article 36 – paragraph 1 – point a**

###### *Text proposed by the Commission*

(a) amend the list of international conventions set out in Article 2(3), in order to include those conventions which require the flag State's approval of equipment to be

###### *Amendment*

(a) amend the list of international conventions set out in Article 2(3), in order to include those conventions which require the flag State's approval of equipment to

placed on board ships flying its flag;

be placed on board ships flying its flag,  
*and which have entered into force;*

#### **Amendment 49**

##### **Proposal for a directive Article 37 – paragraph 2**

###### *Text proposed by the Commission*

2. The delegation of power referred to in Articles 8, 11, 29 and 36 shall be conferred on the Commission for *an indeterminate period of time* from the date of entry into force of this Directive.

###### *Amendment*

2. The delegation of power referred to in Articles 8, 11, 29, **35** and 36 shall be conferred on the Commission for *a period of five years* from the date of entry into force of this Directive. *The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*

###### *Justification*

*The delegation of power to the Commission should be limited to a period of five years, which may be extended if certain conditions are complied with, for example that a report must be drafted and that Parliament and the Council do not oppose it. This amendment takes account of the new standard wording for delegated acts.*

#### **Amendment 50**

##### **Proposal for a directive Article 37 – paragraph 3**

###### *Text proposed by the Commission*

3. The delegation of power referred to in Articles 8, 11, 29 and 36 may be revoked at any time by the European Parliament or by the Council. A decision *of revocation* shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

###### *Amendment*

3. The delegation of power referred to in Articles 8, 11, 29, **35** and 36 may be revoked at any time by the European Parliament or by the Council. A decision *to revoke* shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in

force.

## Amendment 51

### Proposal for a directive Article 37 – paragraph 5

*Text proposed by the Commission*

5. A delegated act adopted pursuant to Articles 8, 11, 29 and 36 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

*Amendment*

5. A delegated act adopted pursuant to Articles 8, 11, 29, **35** and 36 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of *two* months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by *two* months at the initiative of the European Parliament or *of* the Council.

## Amendment 52

### Proposal for a directive Article 40 – paragraph 2

*Text proposed by the Commission*

2. The requirements and testing standards for marine equipment applicable on [application date] pursuant to the provisions of national law adopted by the Member States in order to comply with Directive 96/98/EC shall continue to apply until the entry into force of the **implementing** acts referred to in Article 35(2).

*Amendment*

2. The requirements and testing standards for marine equipment applicable on [application date] pursuant to the provisions of national law adopted by the Member States in order to comply with Directive 96/98/EC shall continue to apply until the entry into force of the **delegated** acts referred to in Article 35(2).

## Amendment 53

### Proposal for a directive Annex II – part I – point 3 – paragraph 2 – indent 1

*Text proposed by the Commission*

**– a certified copy of the patent, license or document by which the applicant purports**

*Amendment*

**deleted**



*to have the right to make, use, sell or offer the marine equipment for sale or use its trademark, which, notwithstanding point 16 of Annex III, the notified body shall keep at the disposal of the competent courts;*

*Justification*

*The process is primarily about demonstrating technical compliance of a product. It is not clear why it is relevant to ask for copies of applicable patents as part of this process, particularly as this may lead to a data confidentiality issue.*

**Amendment 54**

**Proposal for a directive  
Annex II – part I – point 4.2**

*Text proposed by the Commission*

4.2. verify that the specimen(s) have been manufactured in conformity with the technical documentation, and identify the elements which have been designed in accordance with the applicable provisions of the relevant harmonised standards and/or technical specifications, as well as the elements which have been designed without applying the relevant provisions of those standards;

*Amendment*

4.2. verify that the specimen(s) have been manufactured in conformity with the technical documentation, and identify the elements which have been designed in accordance with the applicable provisions of the relevant harmonised standards and/or technical specifications, ***applicable requirements and testing standards*** as well as the elements which have been designed without applying the relevant provisions of those standards;

*Justification*

*The Commission has taken over the wording used in Decision 768/2008 (the 'New Approach'). Our focus has been on adapting that wording to the specific case of marine equipment.*

**Amendment 55**

**Proposal for a directive  
Annex II – part II – point 3.1 – paragraph 2 – indent 1**

*Text proposed by the Commission*

*– a certified copy of the patent, license or document by which the applicant purports to have the right to make, use, sell or offer the marine equipment for sale or use its trademark, which, notwithstanding point 16 of Annex III, the notified body shall*

*Amendment*

*deleted*

***keep at the disposal of the competent courts,***

*Justification*

*The process is primarily about demonstrating technical compliance of a product. It is not clear why it is relevant to ask for copies of applicable patents as part of this process, particularly as this may lead to a data confidentiality issue.*

**Amendment 56**

**Proposal for a directive**

**Annex II – part III – point 3.1 – paragraph 2 – indent 1**

*Text proposed by the Commission*

*Amendment*

***– a certified copy of the patent, license or document by which the applicant purports to have the right to make, use, sell or offer the marine equipment for sale or use its trademark, which, notwithstanding point 16 of Annex III, the notified body shall keep at the disposal of the competent courts,*** ***deleted***

*Justification*

*The process is primarily about demonstrating technical compliance of a product. It is not clear why it is relevant to ask for copies of applicable patents as part of this process, particularly as this may lead to a data confidentiality issue.*

**Amendment 57**

**Proposal for a directive**

**Annex II – part IV – point 3 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***The manufacturer shall provide the notified body with a certified copy of the patent, license or document by which the applicant purports to have the right to make, use, sell or offer the marine equipment for sale or use its trademark, which, notwithstanding point 16 of Annex III, the notified body shall keep at the disposal of the competent courts.*** ***deleted***

*Justification*

*The process is primarily about demonstrating technical compliance of a product. It is not clear why it is relevant to ask for copies of applicable patents as part of this process, particularly as this may lead to a data confidentiality issue.*

**Amendment 58**

**Proposal for a directive**

**Annex II – part V – point 2 – paragraph 1 – indent 1**

*Text proposed by the Commission*

*Amendment*

*– a certified copy of the patent, license or document by which the applicant purports to have the right to make, use, sell or offer the marine equipment for sale or use its trademark, which, notwithstanding point 16 of Annex III, the notified body shall keep at the disposal of the competent courts,* *deleted*

*Justification*

*The process is primarily about demonstrating technical compliance of a product. It is not clear why it is relevant to ask for copies of applicable patents as part of this process, particularly as this may lead to a data confidentiality issue.*