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POSITION OF THE EUROPEAN PARLIAMENT

adopted at first reading on 4 October 2017 with a view to the adoption of Directive (EU) 2017/... of the European Parliament and of the Council amending Directive 2009/45/EC on safety rules and standards for passenger ships
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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

After consulting the Committee of the Regions¹,

Acting in accordance with the ordinary legislative procedure¹,

¹ OJ C 34, 2.2.2017, p. 167.

¹ Position of the European Parliament of 4 October 2017.

Whereas:

- (1) To maintain a high level of safety, ***and thereby passenger confidence***, provided by common safety standards defined by Directive 2009/45/EC of the European Parliament and of the Council ¹ and to preserve ***a*** level playing field, it is necessary to improve the application of that Directive. Directive 2009/45/EC should apply only to the passenger ships and craft for which the safety standards of that Directive were designed. A number of specific ship types should therefore be excluded from the scope of that Directive, and in particular tenders, sailing ships and ships transporting, for example to offshore installations, trained personnel who are not engaged in the business of the ship.

- (2) ***Ship-carried tenders are used to ferry passengers from passenger ships directly to shore and back, taking the shortest safe sea route. They are not appropriate, and should not be used, for other types of services such as coastal sightseeing excursions. Such excursions should be undertaken by ships that meet the requirements for passenger ships of the coastal State, as stated inter alia by the IMO guidelines (MSC.1/Circ. 1417 on Guidelines for passenger ship tenders). Member States and the Commission should promote discussion at the IMO with a view to reviewing the guidelines in order to increase safety. The Commission should assess the need to make the guidelines mandatory.***

¹ Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (OJ L 163, 25.6.2009, p. 1).

- (3) *Directive 2009/45/EC excludes passenger ships that are not propelled by mechanical means from its scope. Sailing ships should not be certified in accordance with that Directive where their mechanical propulsion is only intended for auxiliary and emergency use. The Commission should therefore assess the need for common European requirements for this category of passenger ship by 2020.*
- (4) *Offshore installations are served by vessels that transport industrial personnel. Those industrial personnel are required to successfully complete a course of mandatory safety training and to satisfy certain mandatory medical fitness criteria. They should therefore be covered by different and specific safety rules that are outside the scope of this Directive. Member States and the Commission should actively support the ongoing work of the IMO in the field of safety standards for offshore vessels, further to IMO resolution MSC.418(97).*

- (5) The Regulatory Fitness and Performance Programme (REFIT) has shown that not all Member States certify aluminium ships under Directive 2009/45/EC. This creates an unequal situation that undermines the objective of achieving a common, high safety level for passengers sailing domestically in the Union. To avoid the non-uniform application arising from different interpretations of the definition of aluminium as an equivalent material and the applicability of the corresponding fire safety standards, resulting in different interpretations of the Directive's scope, the definition of "equivalent material" in Directive 2009/45/EC should be clarified. ***Member States should be allowed to opt for stricter fire prevention measures in accordance with the provisions of this Directive concerning additional safety requirements.***
- (6) ***A significant number of passenger ships built in aluminium alloy provide regular and frequent maritime connections between different ports within a Member State. Because compliance with the requirements of this Directive would have serious consequences for such transport operations and the related socio-economic conditions, as well as financial and technical implications for existing and new ships, those Member States should have the possibility to apply, for a limited period of time, national law to such passenger ships, while ensuring that the level of safety is adequately maintained.***

- (7) With a view to increasing legal clarity and consistency, ***and thereby increasing the level of safety***, a number of definitions and references should be updated and further aligned with the related international or Union rules. In doing so, special care should be taken not to alter the existing scope **■ of ■** Directive 2009/45/EC. In particular, the definition of traditional ship should be better aligned with Directive 2002/59/EC of the European Parliament and of the Council¹, while preserving the current criteria of the year of built and type of material. The definition of pleasure yacht and craft should be better aligned with the 1974 I International Convention for the Safety of Life at Sea (1974 SOLAS Convention).

¹ Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC (OJ L 208, 5.8.2002, p. 10).

- (8) In view of the principle of proportionality, the current prescriptive requirements derived from the 1974 SOLAS Convention have proven difficult to adapt to small passenger vessels below 24 meters in length. Furthermore, small ships are primarily built in materials other than steel. Therefore only a very limited number of such ships have been certified under Directive 2009/45/EC. In the absence of specific safety concerns and adequate standards provided by Directive 2009/45/EC, ships below 24 meters in length should **■** therefore *be* excluded from the scope of that Directive and should be subject to specific safety standards determined by Member States, which are better placed to assess the local limitations on navigation for those ships in terms of distance to coast or port and weather conditions. ***In determining those standards, Member States should take into account guidelines to be published by the Commission. Those guidelines should take into consideration any international agreements and conventions by the IMO, as appropriate, and should avoid introducing additional requirements that go beyond existing international rules. The Commission is invited to adopt such guidelines as soon as possible.***

- (9) To further simplify the definitions of sea areas provided for by Directive 2009/45/EC and to minimise the burden on Member States, redundant or inadequate criteria should be removed. While maintaining the safety level, the definition of sea areas in which ships of Class C and D may operate should be simplified by removing the criterion of 'where the shipwrecked persons can land' and by removing the 'distance to the place of refuge' for the purpose of defining the sea areas. The appropriateness of a particular coastline as a place of refuge is a dynamic parameter that can only be assessed on a case by case basis by Member States. Where necessary, any operational restrictions for a particular ship related to its distance from a place of refuge should be noted in the Passenger Ship Safety Certificate.
- (10) *Due to the specific geographical and weather characteristics and the high number of islands that need to be served regularly and frequently in Greece, both with the mainland or amongst them, and the ensuing high number of possible maritime connections, Greece should be allowed to derogate from the requirement of establishing sea areas. Instead, Greece should be allowed to classify passenger ships according to the specific sea route in which they operate, while maintaining the same criteria for classes of passenger ships and the same safety standards.*

- (11) To avoid unintended negative consequences of the current provisions, in accordance with which converted cargo ships may not be considered to be new passenger ships, it should be clarified that the conversion requirements apply not only to existing passenger ships but to any ship.
- (12) *Since, in accordance with Directive 2009/16/EC of the European Parliament and of the Council¹, a port State may inspect a passenger ship or a high-speed passenger craft flying a flag other than that of the port State, when engaged on domestic voyages, the specific provisions of Article 5(3) of Directive 2009/45/EC are redundant and should be deleted.*
- (13) *In view of the differences in approach between the 1974 SOLAS Convention requirements on damage stability and the specific Union damage stability requirements for ro-ro passenger ships contained in Directive 2003/25/EC of the European Parliament and of the Council², the need for Directive 2003/25/EC and its added value should be assessed based on whether those 1974 SOLAS Convention requirements ensure the same safety level.*

¹ *Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).*

² *Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 on specific stability requirements for ro-ro passenger ships (OJ L 123, 17.5.2003, p. 22).*

- (14) To increase the transparency and to facilitate the notification of exemptions, equivalencies and additional safety measures by Member States, a database should be established and maintained by the Commission. It should include the notified measures in their draft and adopted form. ***The adopted measures should be made publicly accessible.***
- (15) In view of the changes brought about by the Treaty on the Functioning of the European Union (TFEU), the powers conferred on the Commission to implement Directive 2009/45/EC should be updated accordingly. Implementing acts should be adopted in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹.

¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(16) In order to take account of developments at international level and experience and to increase transparency, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of *not applying, for the purposes of this Directive*, amendments to the international instruments, if necessary, *and* updating the technical requirements ■ . It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (17) *Since the specific references in Article 14 to ongoing work in the IMO have become obsolete, that Article should be deleted. However, the general objectives of international action to improve passenger ship safety and to establish a level playing field remain relevant and should be pursued, in accordance with the Treaties. To that end, the Member States and the Commission should work within the IMO framework to revise and to improve the regulations of the 1974 SOLAS Convention* ■ .
- (18) *It is important that any penalties laid down by Member States be properly implemented and be effective, proportionate and dissuasive.*
- (19) In view of the full monitoring cycle of European Maritime Safety Agency (*EMSA*) visits, the Commission should evaluate the implementation of Directive 2009/45/EC by... [nine years after the date of entry into force of this amending Directive] and submit to the European Parliament and the Council a report thereon. Member States should cooperate with the Commission to gather all information that is necessary for that evaluation.

- (20) *In order not to impose a disproportionate administrative burden on landlocked Member States which have no seaports and which have no ships flying their flag that fall within the scope of this Directive, such Member States should be allowed to derogate from the provisions of this Directive. This means that as long as those conditions are fulfilled, they are not obliged to transpose this Directive.*
- (21) *The human element is a fundamental part of ship safety and the procedures related to it. In order to maintain a high level of safety, it is necessary to take into account the link between safety, shipboard living, working conditions and training, including training related to cross-border rescue and emergency operations in line with international requirements. The Member States and the Commission should therefore play a proactive role at an international level in order to monitor and improve the social dimension for seafarers on board ships.*
- (22) *In order to facilitate the implementation process, EMSA should support the Commission and the Member States in accordance with the relevant provisions of Regulation (EC) No 1406/2002 of the European Parliament and of the Council¹.*
- (23) Directive 2009/45/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

¹ *Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p. 1).*

Article 1
Amendments to Directive 2009/45/EC

Directive 2009/45/EC is amended as follows:

(1) Article 2 is amended as follows:

(a) point (a) is replaced by the following:

"(a) 'International Conventions' means the following conventions, *including their Protocols and* amendments thereto, in their up-to-date versions:

(i) the 1974 International Convention for the Safety of Life at Sea (the 1974 SOLAS Convention); and

(ii) the 1966 International Convention on Load Lines ■ ;";

(b) point (b) is replaced by the following:

"(b) 'Intact Stability Code' means the 'Code on Intact Stability for all types of ships covered by IMO Instruments' contained in IMO Assembly Resolution A.749(18) of 4 November 1993, or the 'International Code on Intact Stability, 2008' contained in IMO Resolution MSC.267(85) of 4 December 2008, in their up-to-date versions;"

(c) point (g)(ii) is replaced by the following:

"(ii) their maximum speed, as defined in Regulation 1.4.30 of the 1994 High Speed Craft Code and Regulation 1.4.38 of the 2000 High Speed Craft Code, is less than 20 knots;"

(d) point (m) is replaced by the following:

"(m) 'bow height' means the bow height defined in Regulation 39 of the 1966 International Convention on Load Lines;"

(e) point (q) *first subparagraph* is replaced by the following:

"(q) 'sea area' means any sea area or sea route established pursuant to Article 4;"

(f) *point (r) is replaced by the following:*

"(r) 'port area' means an area other than a sea area established pursuant to Article 4, defined by the Member State with jurisdiction over it, extending to the outermost permanent harbour works forming an integral part of the harbour system, or to the limits defined by natural geographical features protecting *an* estuary or similar sheltered area;"

(g) point (s) is deleted;

(h) point (u) is replaced by the following:

"(u) 'port State' means a Member State to or from whose port or ports a ship or craft flying a flag other than the flag of that Member State is carrying out domestic voyages;"

(i) point (v) is replaced by the following:

"(v) 'recognised organisation' means an organisation recognised in accordance with Regulation (EC) No 391/2009 of the European Parliament and of the Council*;

* Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations (OJ L 131, 28.5.2009, p. 11).";

(j) point (y) is replaced by the following:

"(y) 'persons with reduced mobility' means persons who have a particular difficulty when using public transport, including elderly persons, ■ persons ***with disabilities***, persons with sensory impairments and wheelchair users, pregnant women and persons accompanying small children;"

(k) the following points are added:

"(z) 'sailing ship' means a ship ■ propelled by sails, even if fitted with mechanical propulsion for auxiliary and emergency purposes;

(za) 'equivalent material' means aluminium alloy or any other non-combustible material ■ which, ***by itself or due to the insulation provided***, maintains structural and integrity properties equivalent to steel at the end of the applicable exposure to the standard fire test ■ ;

- (zb) ‘standard fire test’ means a test in which specimens of the relevant bulkheads or decks are exposed in a test furnace to temperatures corresponding approximately to the standard time-temperature curve in accordance with the test method specified in the 2010 International Code for Application of Fire Test Procedures, contained in IMO Resolution MSC.307(88) of 3 December 2010, in its up-to-date version;
- (zc) ‘traditional ship’ means any kind of historical passenger ship designed before 1965 and their replicas built predominantly with the original materials, including those designed to encourage and promote traditional skills and seamanship, that together serve as living cultural monuments, operated according to traditional principles of seamanship and technique;
- (zd) ‘pleasure yacht *or pleasure* craft’ means a vessel ■ not engaged in trade, regardless of the means of propulsion;
- (ze) ‘tender’ means a ship-carried boat used for transferring more than 12 passengers from a stationary passenger ship to shore and back;

(zea) 'offshore service ship' means a ship used to transport and accommodate industrial personnel who do not conduct work on board that is essential to the business of the ship;

(zeb) 'offshore service craft' means a craft used to transport and accommodate industrial personnel who do not conduct work on board that is essential to the business of the craft;

(zf) 'repairs, alterations and modifications of a major character' means any of the following:

- any change that substantially alters the dimensions of a ship, such as lengthening by adding new midbody,
- any change that substantially alters the passenger-carrying capacity of a ship, such as converting the vehicle deck to passenger accommodation,
- any change that substantially increases a ship's service life, such as renewing the passenger accommodation on one entire deck,
- any conversion of any type of ship into a passenger ship.";

(2) Article 3 is replaced by the following:

"Article 3

Scope

1. This Directive applies to the following passenger ships and craft, regardless of their flag, when engaged on domestic voyages:
 - (a) new and existing passenger ships of 24 meters in length and above;
 - (b) high-speed passenger craft.

Each Member State, in its capacity as port State, shall ensure that passenger ships and high-speed passenger craft, flying the flag of a State which is not a Member State, fully comply with the requirements of this Directive, before they may be engaged on domestic voyages in that Member State.

2. This Directive does not apply to:
- (a) *passenger* ships which are:
 - (i) ships of war and troopships;
 - (ii) sailing ships;
 - (iii) ships not propelled by mechanical means;
 - (iv) vessels constructed in material other than steel or equivalent and not covered by the standards concerning High Speed Craft (Resolution MSC 36(63) or MSC.97(73)) or Dynamically Supported Craft (Resolution A.373(X));
 - (v) wooden ships of primitive build;
 - (vi) traditional ships;
 - (vii) pleasure yachts;
 - (viii) ships exclusively engaged in port areas;
 - (ix) *offshore service ships; or*
 - (x) tenders;

- (b) high-speed *passenger* craft which are:
 - (i) craft of war and troopcraft;
 - (ii) pleasure craft;
 - (iii) craft exclusively engaged in port areas; or
 - (iv) *offshore service craft*.

█

3. *Member States which do not have seaports and which have no passenger ships or craft flying their flag that fall within the scope of this Directive may derogate from the provisions of this Directive except for the obligation set out in the second subparagraph.*

Those Member States which intend to avail themselves of such derogation shall communicate to the Commission at the latest on ... [date of transposition of this amending Directive] if the conditions are met and shall inform the Commission annually thereafter of any subsequent change. Such Member States may not allow passenger ships or craft that fall within the scope of this Directive to fly their flag until they have transposed and implemented this Directive.";

(3) Article 4 ■ is replaced by the following:

"Article 4

Categorisation of sea areas and classes of passenger ships

1. *Sea areas are divided into the following categories:*

■	
'Area A'	means a <i>sea area outside of areas B, C and D.</i>
'Area B'	means a <i>sea area, whose geographical coordinates are at no point more than 20 miles from the line of coast, corresponding to the medium tide height, but which is outside of areas C and D.</i>
'Area C'	<p><i>means a sea area, whose geographical coordinates are at any point no more than 5 miles from the line of coast, corresponding to the medium tide height, but outside of sea area D if any.</i></p> <p><i>Additionally the probability of the significant wave height exceeding 2,5 metres shall be smaller than 10 % for a period of one-year for all-year-round operation, or for a specific period for seasonal operation, such as summer period operation.</i></p>
'Area D'	<p>means a <i>sea area, whose geographical coordinates are at any point no more than 3 miles from the line of coast, corresponding to the medium tide height.</i></p> <p><i>Additionally the probability of the significant wave height exceeding 1,5 metres shall be smaller than 10 % for a period of one-year ■ for all-year-round operation, or for a specific ■ period ■ for seasonal operation, such as summer period operation ■ .</i></p>
■	

2. *Each Member State shall:*
 - (a) *establish, and update when necessary, a list of the sea areas within its jurisdiction;*
 - (b) *determine the inner border of the sea area closest to the line of its coast;*
 - (c) *publish the list in a public database available on the Internet site of the competent maritime authority;*
 - (d) *notify to the Commission the location of such information, and when modifications are made to the list.*

3. *By way of derogation from the obligation to establish a list of sea areas, Greece may establish, and shall update when necessary, a list of sea routes covering the sea routes in Greece ■ , using the corresponding criteria for categories set out in paragraph 1.*

4. *Passenger ships are divided into the following classes according to the sea area in which they may operate:*

'Class A'	<i>means a passenger ship engaged on domestic voyages in Areas A, B, C and D.</i>
'Class B'	<i>means a passenger ship engaged on domestic voyages in Areas B, C and D.</i>
'Class C'	<i>means a passenger ship engaged on domestic voyages in Areas C and D.</i>
'Class D'	<i>means a passenger ship engaged on domestic voyages in Area D.</i>

5. *For high-speed passenger craft the categories defined in Chapter 1 (1.4.10) and (1.4.11) of the 1994 High Speed Craft Code, or Chapter 1 (1.4.12) and (1.4.13) of the 2000 High-Speed Craft Code shall apply.';*

- (4) Article 5 is amended as follows:

- (a) in paragraph 2, the second subparagraph is replaced by the following:

"Each Member State, acting in its capacity as port State, shall recognise the High Speed Craft Safety Certificate ■ and the Permit to Operate issued by another Member State for high-speed passenger craft, when engaged on domestic voyages, or the Passenger Ship Safety Certificate referred to in Article 13 issued by another Member State for passenger ships when engaged on domestic voyages.";

- (b) *paragraph 3 is deleted;*

(c) *paragraph 4 is replaced by the following:*

■

"4. Marine equipment complying with the requirements laid down pursuant to Directive 2014/90/EU of the European Parliament and of the Council* shall be deemed to be in conformity with the requirements of this Directive.

* Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC (OJ L 257, 28.8.2014, p. 146).";

(5) Article 6 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (a) is replaced by the following:

"(a) the construction and maintenance of the hull, main and auxiliary machinery, electrical and automatic plants shall comply with the standards specified for classification by the rules of a recognised organisation, or equivalent rules used by an Administration in accordance with Article 11(2) of Directive 2009/15/EC of the European Parliament and of the Council*;

* Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ L 131, 28.5.2009, p. 47).";

(ii) point (c) is deleted;

(b) in point (b) of paragraph 2,

– point (ii) is deleted;

– *point (iii) is replaced by the following:*

"(iii) notwithstanding point (i), new passenger ships of Class D are exempt from the minimum bow height requirement laid down in the 1966 International Convention on Load Lines;"

(c) paragraph 3 is amended as follows:

(i) points (c) and (d) are replaced by the following:

"(c) existing passenger ships of Classes C and D shall comply with the specific relevant requirements in this Directive and, in respect of matters not covered by such requirements, with the rules of the Administration of the flag State; such rules shall provide an equivalent level of safety to that of Chapters II-1 and II-2 of Annex I, while taking into account the specific local operational conditions related to the sea areas in which ships of such classes are allowed to operate; before existing passenger ships of Classes C and D can be engaged on regular domestic voyages in a port State, the Administration of the flag State shall obtain the agreement of the port State concerning such rules;

(d) where a Member State is of the view that rules required by the Administration of the port State pursuant to point (c) of this paragraph are unreasonable, it shall immediately notify the Commission thereof. The Commission shall adopt implementing acts, containing its decision whether those rules are reasonable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).";

(ii) points (e) and (f) are deleted;

(d) paragraph 4 is amended as follows:

(i) in point (a), the third indent is replaced by the following:

"– they fully comply with the requirements of the Code of Safety for Dynamically Supported Craft (DSC Code) in IMO Resolution A.373(10), in its up-to-date version;"

(ii) point (c) is replaced by the following:

"(c) the construction and maintenance of high-speed passenger craft and their equipment shall comply with the rules for the classification of high-speed craft of a recognised organisation, or equivalent rules used by an Administration in accordance with Article 11(2) of Directive 2009/15/EC.";

(e) the following paragraphs are added:

- "5. With regard to new and existing ships repairs, alterations and modifications of a major character and outfitting related thereto shall comply with the requirements for new ships set out in point (a) of paragraph 2; alterations made to a ship which are intended solely to achieve a higher survivability standard shall not be regarded as modifications of a major character.
6. Ships built in an equivalent material before ... [the date of entry into force of this amending Directive] shall comply with requirements of this Directive by... [6 years after the date referred to in the second subparagraph of Article 2(1)].

7. *By way of derogation from this Directive, a Member State with more than 60 passenger ships built in aluminium alloy flying its flag on ... [date of entry into force of this amending Directive] may exempt from the provisions of this Directive the following passenger ships for the following periods:*

(a) *Class B, C and D passenger ships built in aluminium alloy after ... [the date of entry into force of this amending Directive], for a period of 10 years after that date; and*

(b) *Class B, C and D passenger ships built in aluminium alloy before ... [date of entry into force of this amending Directive], for a period of 12 years after that date,*

provided that those ships operate exclusively between ports of that Member State.

Any Member State wishing to avail itself of this derogation shall notify the Commission of its intention to do so by ... [the date referred to in the second subparagraph of Article 2(1)] as well as inform the Commission of the content. They shall also communicate to the Commission any subsequent change. The Commission shall inform the other Member States in accordance with Article 9(4).";

(6) *Article 7 is amended as follows:*

(a) *paragraph 1 is replaced by the following:*

"1. Ro-ro passenger ships of Class C, the keels of which were laid or which were at a similar stage of construction on or after 1 October 2004, and all ro-ro passenger ships of Classes A and B shall comply with Articles 6, 8 and 9 of Directive 2003/25/EC."

(b) *paragraph 2 is deleted;*

(7) Article 8 is amended as follows:

(a) in paragraph 3, the second subparagraph is deleted;

(b) paragraph 4 is deleted;

(8) Article 9 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. A Member State may, subject to the procedure laid down in paragraph 4, adopt measures allowing equivalents for certain specific requirements of this Directive, provided that such equivalents are at least as effective as such requirements."

(b) paragraph 4 is replaced by the following:

"4. A Member State which avails itself of the rights accorded by paragraph 1, 2 or 3 shall proceed in accordance with the second to *seventh* subparagraphs of this paragraph.

The Member State shall notify the Commission of the measures which it intends to adopt, and shall include, with such notification, sufficient particulars to confirm that the level of safety is adequately maintained.

If, within a period of six months from the notification, the Commission adopts implementing acts containing its decision that the proposed measures are not justified, the said Member State shall be required to amend or not to adopt the proposed measures. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).

The adopted measures shall be specified in the relevant national legislation and communicated to the Commission and to the other Member States.

Any such measures shall be applied to all passenger ships of the same Class or to craft when operating under the same specified conditions, without discriminating with regard to their flag or to the nationality or place of establishment of their operator.

The measures referred to in paragraph 3 shall apply only for as long as the ship or craft operates under the specified conditions.

Member States shall notify the measures referred to in the second and fourth subparagraph to the Commission by means of a database which the Commission shall establish and maintain for such purpose, and to which the Commission *and Member States shall have access. The Commission shall make the adopted measures available on a publicly accessible website.*";

(c) in paragraph 5, point (c) is replaced by the following:

"(c) the Commission shall adopt implementing acts containing its decision whether or not the decision of the Member State to suspend the operation of such ship or craft or to impose the additional measures is justified for reasons of serious danger to safety of life or property, or to the environment, and, if the suspension or the imposition of the additional measures is not justified, containing its decision requiring the Member State concerned to withdraw the suspension or the measures. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).";

(9) Article 10 is amended as follows:

(a) in paragraph 1, point (d) is replaced by the following:

"(d) the specific references to the 'International Conventions' and IMO resolutions referred to in points (g), (m), (**q**), and (**zb**) of Article 2, point (a) of Article 3(2), point (b) of Article 6(1) and point (b) of Article 6(2).";

(b) in paragraph 2,

(i) point (b) is replaced by the following:

"(b) adjust the technical specifications found in the amendments made to International Conventions for ships of classes B, C and D and craft, in the light of experience;"

(ii) the following points are added:

"(c) simplify and clarify technical elements, in the light of experience gained from their implementation;

(d) update the references to other Union instruments applicable to domestic passenger ships."

(c) paragraphs 3 and 4 are replaced by the following:

"3. The Commission is empowered to adopt delegated acts in accordance with Article 10a in order to adopt the amendments to this Directive referred to in paragraphs 1 and 2 of this Article.

4. *In exceptional circumstances, where duly justified by an appropriate analysis by the Commission and in order to avoid a serious and unacceptable threat to maritime safety, to health, to shipboard living or working conditions or to the marine environment, or to avoid incompatibility with Union maritime legislation, the Commission is empowered to adopt delegated acts in accordance with Article 10a, amending this Directive in order **not to apply, for the purpose of this Directive, an** amendment to the international instruments referred to in Article 2.*

Those delegated acts shall be adopted at least three months before the expiration of the period established internationally for the tacit acceptance of the amendment concerned or the envisaged date for the entry into force of said amendment. In the period preceding the entry into force of such delegated act, Member States shall refrain from any initiative intended to integrate the amendment in national legislation or to apply the amendment to the international instrument concerned.";

(10) the following Article is inserted:

"Article 10a

Exercise of the delegation

1. The power to adopt delegated acts referred to in Articles 10(3) and 10(4) is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 10(3) and 10(4) shall be conferred on the Commission for *a* period of *seven years* from ... [the date of entry into force *of this amending Directive*]. *The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-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.*
3. The delegation of power referred to in Articles 10(3) and 10(4) 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.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 10(3) or 10(4) shall enter into force only if no objection has been expressed either by the European Parliament or by 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.";

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(11) Article 11 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 of the European Parliament and of the Council* shall apply.

* Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).";

(b) paragraph 3 is deleted;

(12) Article 12 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. Each passenger ship shall be subjected by the Administration of the flag State to the surveys specified in points (a), (b) and (c):

(a) an initial survey before the ship is put into service;

(b) a periodical survey once every 12 months; and

(c) additional surveys, as the occasion arises.";

(b) paragraph 2 is deleted;

(13) Article 13 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. All new and existing passenger ships fulfilling the requirements of this Directive shall be provided with a Passenger Ship Safety Certificate in compliance with this Directive. The certificate shall be in the format laid down in Annex II. This certificate shall be issued by the Administration of the flag State after an initial survey, as described in point (a) of Article 12(1), has been carried out.";

(b) in paragraph 3, the third subparagraph is replaced by the following:

"Before issuing the Permit to Operate for high-speed passenger craft engaged on domestic voyages in a port State, the Administration of the flag State shall concur with the port State on any operational conditions associated with operation of the craft in that State. Any such conditions shall be noted by the Administration of the flag State on the Permit to Operate.";

(c) paragraph 4 is replaced by the following:

"4. Additional safety measures, equivalences and exemptions granted to ships or craft under and in accordance with Article 9(1), (2) and (3) shall be noted on the ship's or the craft's certificate.";

(14) *Article 14 is deleted;*

(15) the following Article is inserted:

"Article 16a

Review

The Commission shall evaluate the implementation of this Directive and submit the results of the evaluation to the European Parliament and the Council by ... [seven years after the date referred to in the second subparagraph of Article 2(1)].";

(16) Annex I is amended as follows:

- (a) in paragraph 13.1 of Part A of Chapter II-2, the first subparagraph is replaced by the following:

"In all ships general arrangement plans shall be permanently exhibited for the guidance of the ship's officers, showing clearly for each deck the control stations, the various fire sections enclosed by 'A' class divisions, the sections enclosed by 'B' class divisions together with particulars of the fire detection and fire alarm systems, the sprinkler installation, the fire-extinguishing appliances, means of access to different compartments, decks, etc. and the ventilating system including particulars of the fan control positions, the position of dampers and identification numbers of the ventilating fans serving each section. Alternatively the aforementioned details may be set out in a booklet, a copy of which shall be supplied to each officer, and one copy shall at all times be available on board in an accessible position. Plans and booklets shall be kept up to date, any alterations being recorded thereon as soon as practicable. Description in such plans and booklets shall be in the official language of the flag State. If the language is neither English nor French, a translation into one of these languages shall be included. In the case that the ship is engaged on domestic voyages in another Member State, a translation into the official language of that port State shall, if this language is neither English nor French, be included.";

- (b) in the first paragraph of footnote 1 to the table in paragraph 2 of Chapter III, the introductory part is replaced by the following:

"Survival craft may be lifeboats or life rafts or a combination of them in compliance with Regulation III/2.2. When justified by the sheltered nature of the voyages and/or the favourable climatic conditions of the area of operation, having regard to the recommendations in IMO MSC/Circ.1046, the Administration of the flag State may accept, if this is not rejected by the port Member State:".

Article 2

Transposition

1. By ... [**24 months after the entry into force of this Directive**], Member States shall adopt and publish, the measures necessary to comply with this Directive. They shall immediately inform the Commission thereof.

They shall apply those measures from ... [**24 months after the entry into force**].

When Member States adopt those 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.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

Addressees

This Directive is addressed to the Member States.

Done,

For the European Parliament

The President

For the Council

The President