



EUROPEAN PARLIAMENT

2009 - 2014

Plenary sitting

A7-0255/2013

12.7.2013

*****I**
REPORT

on the proposal for a directive of the European Parliament and of the Council
on marine equipment and repealing Directive 96/98/EC
(COM(2012)0772 – C7-0414/2012 – 2012/0358(COD))

Committee on Transport and Tourism

Rapporteur: Dominique Riquet

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in bold italics. Highlighting in normal italics is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in bold. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council on marine equipment and repealing Directive 96/98/EC
(COM(2012)0772 – C7-0414/2012 – 2012/0358(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2012)0772),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0414/2012),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 20 March 2013¹,
 - after consulting the Committee of the Regions,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A7-0255/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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

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

¹ OJ C 161, 6.6.2013, p. 93.

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

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 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

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 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*

(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

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.

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

(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.

Amendment

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

(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:

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) **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

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

Amendment

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.

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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

Amendment

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

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.

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

Amendment

3. The requirements and standards referred to in paragraphs 1 and 2 shall be

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).

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

Amendment

1. ***Manufacturers may, as soon as 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

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;

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

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

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 **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

posed by products which they have placed on the market.

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

Amendment

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)*.

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 request, positive conformity assessment results***.

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 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

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

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:

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

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.

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 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.

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, 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

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

Amendment

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 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);

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, ***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

- (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).

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 placed on board ships flying its flag;

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.

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 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

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 54

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

Text proposed by the Commission

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, as well as the elements which have been designed without applying the relevant provisions of those standards;

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

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 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.

EXPLANATORY STATEMENT

Background

The international maritime safety conventions require flag States to ensure that certain equipment carried on board ships complies with design, construction and performance standards.

The aim is to ensure the safety of ships and their crews and also to prevent maritime accidents and pollution of the marine environment. The products covered include, for example, navigation tools, life-saving equipment and fire-protection systems.

Harmonisation of the way that these standards are applied by the EU Member States is currently provided for in Directive 96/98/EC on marine equipment. Thanks to precise definition of the requirements and to standard certification procedures, the number of potential disparities among the Member States has gradually been reduced.

Problems persist, however, in relation to delayed transposition of the standards into national legal systems (resulting in legal uncertainty for administrative authorities and companies), as well as the performance of marine equipment conformity assessment bodies and the matter of market surveillance.

Moreover, Directive 96/98/EC is not consistent with the new legislative framework for the marketing of products: Regulation (EC) No 765/2008, Decision No 768/2008/EC and Regulation (EC) No 764/2008. These texts contain a set of general principles and reference provisions for the drawing up of all legislation to harmonise conditions for the marketing of products.

To address these various factors, the Commission has produced a proposal to replace the current Directive on marine equipment.

The proposal aims to enhance the Directive's implementation and enforcement mechanisms, thereby guaranteeing the proper functioning of the internal market for marine equipment while ensuring a high level of safety at sea and prevention of marine pollution. It is also intended to simplify the regulatory environment while guaranteeing that International Maritime Organization (IMO) requirements are applied and implemented in a harmonised way throughout the Union.

The Commission's proposal for a directive has no implications for the EU budget.

Rapporteur's position

The marine equipment industry is a leading sector, with high value-added, which attracts substantial investment in research and development. It includes an estimated 5 000 to 6 000 companies with a total workforce in Europe of approximately 300 000.

Relevant stakeholders include not only European marine equipment manufacturers, many of them small or medium-sized enterprises (SMEs), and shipyards, but also passengers, ships' crews and public administrative bodies.

The rapporteur supports the Commission's approach on the grounds that this proposal for a directive should result in improved safety for ships and their crews while also stimulating the marine equipment industry and boosting job creation. Timely transposition of the IMO standards into EU law should have the effect of reducing companies' costs and thus making the sector more competitive.

However, the rapporteur wishes to propose a number of amendments intended to improve the proposal.

In order to **create greater legal certainty for the Member States and for companies** and to avoid differences of interpretation when the Directive comes into force, some of its provisions have been made more detailed. This applies particularly with regard to the length of time for which technical documentation and EU declarations of conformity must be kept (Articles 12 and 13) and to the duration of permission for the placing on board ships of non-compliant equipment in cases of exemption or for testing or assessment purposes (Article 33).

The option of electronic tagging to supplement or replace the wheel mark also needs to be further encouraged both to facilitate the inspection of ships berthing in EU ports and to help combat counterfeiting more effectively (Article 11).

It is important, too, to ensure that **market surveillance measures remain proportionate to their objective**, notably in relation to the samples required by Member States for testing purposes (Article 27).

Lastly, **tighter provisions are proposed for the delegated acts procedure** (see Article 37), to which the Commission may have recourse to amend the list of international conventions which require the flag State's approval of equipment to be placed on board ships flying its flag, and to update the references in Annex III of the Directive to European and international standards.

PROCEDURE

Title	Marine equipment (repealing Directive 96/98/EC)		
References	COM(2012)0772 – C7-0414/2012 – 2012/0358(COD)		
Date submitted to Parliament	17.12.2012		
Committee responsible Date announced in plenary	TRAN 15.1.2013		
Committee(s) asked for opinion(s) Date announced in plenary	ENVI 15.1.2013	IMCO 15.1.2013	JURI 15.1.2013
Not delivering opinions Date of decision	ENVI 16.1.2013	IMCO 23.1.2013	JURI 22.1.2013
Rapporteur(s) Date appointed	Dominique Riquet 21.1.2013		
Discussed in committee	29.5.2013	8.7.2013	
Date adopted	9.7.2013		
Result of final vote	+: –: 0:	37 3 3	
Members present for the final vote	Magdi Cristiano Allam, Inés Ayala Sender, Georges Bach, Erik Bánki, Izaskun Bilbao Barandica, Philip Bradbourn, Antonio Cancian, Michael Cramer, Luis de Grandes Pascual, Christine De Veyrac, Saïd El Khadraoui, Ismail Ertug, Carlo Fidanza, Knut Fleckenstein, Jacqueline Foster, Franco Frigo, Mathieu Grosch, Dieter-Lebrecht Koch, Jaromír Kohlíček, Georgios Koumoutsakos, Werner Kuhn, Jörg Leichtfried, Bogusław Liberadzki, Eva Lichtenberger, Gesine Meissner, Hubert Pirker, Dominique Riquet, Petri Sarvamaa, David-Maria Sassoli, Vilja Savisaar-Toomast, Brian Simpson, Keith Taylor, Silvia-Adriana Ţicău, Giommara Uggias, Peter van Dalen, Patricia van der Kammen, Artur Zasada, Roberts Zile		
Substitute(s) present for the final vote	Phil Bennion, Spyros Danellis, Eider Gardiazábal Rubial, Bogdan Kazimierz Marcinkiewicz, Alfreds Rubiks		
Date tabled	12.7.2013		