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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2017/2107 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 15 November 2017****laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT), and amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007**

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 43(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 Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The objective of the common fisheries policy (CFP), as set out in Regulation (EU) No 1380/2013 of the European Parliament and of the Council ⁽³⁾, is to ensure an exploitation of marine biological resources that provides long-term environmental, economic and social sustainability.
- (2) By Council Decision 98/392/EC ⁽⁴⁾ the Union approved the United Nations Convention on the Law of the Sea, which contains, inter alia, principles and rules with regard to the conservation and management of marine living resources. In the framework of its wider international obligations, the Union participates in efforts made in international waters to conserve fish stocks.
- (3) Pursuant to Council Decision 86/238/EEC ⁽⁵⁾, the Union has been a Contracting Party to the International Convention for the Conservation of Atlantic Tunas ('the ICCAT Convention') since 14 November 1997.

⁽¹⁾ OJ C 34, 2.2.2017, p. 142.

⁽²⁾ Position of the European Parliament of 3 October 2017 (not yet published in the Official Journal) and decision of the Council of 23 October 2017.

⁽³⁾ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

⁽⁴⁾ Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 1).

⁽⁵⁾ Council Decision 86/238/EEC of 9 June 1986 on the accession of the Community to the International Convention for the Conservation of Atlantic Tunas, as amended by the Protocol annexed to the Final Act of the Conference of Plenipotentiaries of the States Parties to the Convention signed in Paris on 10 July 1984 (OJ L 162, 18.6.1986, p. 33).

- (4) The ICCAT Convention provides a framework for regional cooperation on the conservation and management of tunas and tuna-like species in the Atlantic Ocean and the adjoining seas through the setting-up of an International Commission for the Conservation of Atlantic Tunas (ICCAT).
- (5) ICCAT has the authority to adopt compulsory decisions (recommendations) for the conservation and management of the fisheries under its purview, which are binding for the Contracting Parties. Those recommendations are essentially addressed to the Contracting Parties to the ICCAT Convention, but also contain obligations for private operators (e.g. vessel masters). The ICCAT recommendations enter into force six months following their adoption and, in respect of the Union, they must be implemented into Union law as soon as possible.
- (6) A Regulation of the European Parliament and of the Council on the sustainable management of external fishing fleets ⁽¹⁾ will provide that that Regulation is to apply without prejudice to the provisions in Union law implementing provisions adopted by the regional fisheries management organisations (RFMOs) to which the Union is a Contracting Party.
- (7) The last implementation of the ICCAT conservation and enforcement recommendations was done through Council Regulations (EC) No 1936/2001 ⁽²⁾ and (EC) No 520/2007 ⁽³⁾.
- (8) The ICCAT recommendation concerning a multiannual recovery plan for Bluefin tuna in the eastern Atlantic and Mediterranean was implemented by Regulation (EU) 2016/1627 of the European Parliament and of the Council ⁽⁴⁾. This Regulation does not cover such multiannual recovery plan.
- (9) When implementing those recommendations, the Union and Member States should endeavour to promote coastal fishing activities and the use of fishing gear and techniques which are selective and have a reduced environmental impact, including gear and techniques used in traditional and artisanal fisheries, thereby contributing to a fair standard of living for local economies.
- (10) Union legislation should merely implement the ICCAT recommendations in order to place Union and third country fishermen on an equal footing and to ensure that the rules can be accepted by all.
- (11) The delegated acts and implementing acts provided for in this Regulation should be without prejudice to the implementation of future ICCAT recommendations into Union law through the ordinary legislative procedure.
- (12) In order to swiftly implement into Union law future amendments to the ICCAT recommendations, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the Annexes to this Regulation. 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 ⁽⁵⁾. 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.
- (13) In order to ensure uniform conditions for the implementation of the provisions of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽⁶⁾.

⁽¹⁾ Procedure number 2015/0289(COD), not yet published in the Official Journal.

⁽²⁾ Council Regulation (EC) No 1936/2001 of 27 September 2001 laying down control measures applicable to fishing for certain stocks of highly migratory fish (OJ L 263, 3.10.2001, p. 1).

⁽³⁾ Council Regulation (EC) No 520/2007 of 7 May 2007 laying down technical measures for the conservation of certain stocks of highly migratory species and repealing Regulation (EC) No 973/2001 (OJ L 123, 12.5.2007, p. 3).

⁽⁴⁾ Regulation (EU) 2016/1627 of the European Parliament and of the Council of 14 September 2016 on a multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean, and repealing Council Regulation (EC) No 302/2009 (OJ L 252, 16.9.2016, p. 1).

⁽⁵⁾ OJ L 123, 12.5.2016, p. 1.

⁽⁶⁾ 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).

- (14) To ensure compliance with the CFP, Union legislation has been adopted to establish a system of control, inspection and enforcement, which includes the fight against illegal, unreported and unregulated (IUU) fishing. In particular, Council Regulation (EC) No 1224/2009 ⁽¹⁾ establishes a Union system for control, inspection and enforcement with a global and integrated approach so as to ensure compliance with all the rules of the CFP. Commission Implementing Regulation (EU) No 404/2011 ⁽²⁾ lays down detailed rules for the implementation of Regulation (EC) No 1224/2009. Council Regulation (EC) No 1005/2008 ⁽³⁾ establishes a Community system to prevent, deter and eliminate IUU fishing. Those Regulations already implement a number of the provisions laid down in the ICCAT recommendations. It is therefore not necessary to include those provisions in this Regulation.
- (15) The ICCAT recommendations, read together with applicable rules laid down in Regulation (EC) No 1224/2009, allow for large-scale pelagic longline vessels to tranship at sea in non-Union waters within the ICCAT zone. However, the Union should comprehensively and systematically address that issue within the framework of the RFMOs with a view to extending the Union prohibition on transhipment at sea in Union waters to all waters.
- (16) Article 15(1) of Regulation (EU) No 1380/2013 introduced a landing obligation which applies from 1 January 2015 to small and large-scale pelagic fisheries, fisheries for industrial purposes and fisheries for salmon in the Baltic sea. However, under Article 15(2) of that Regulation, the landing obligation is without prejudice to the Union's international obligations, such as those resulting from ICCAT recommendations. Under that same provision the Commission is empowered to adopt delegated acts, for the purpose of implementing such international obligations into Union law, including, in particular, derogations from the landing obligation. Accordingly, the discard in some fisheries for small and large-scale pelagic fisheries and fisheries for industrial purposes is allowed in certain situations laid down in Commission Delegated Regulation (EU) 2015/98 ⁽⁴⁾.
- (17) Council Regulation (EC) No 1984/2003 ⁽⁵⁾ establishes statistical document programmes for swordfish and bigeye tuna in accordance with the relevant ICCAT provisions. As new provisions on statistical programmes have been adopted by ICCAT in relation to transhipment at sea, it is appropriate to amend Regulation (EC) No 1984/2003 to implement those provisions into Union law.
- (18) Many ICCAT recommendations have changed or have been repealed in recent years. Therefore, for reasons of clarity, simplification and legal certainty, it is appropriate to amend Regulations (EC) No 1936/2001 and (EC) No 520/2007,

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down management, conservation and control provisions relating to fishing for highly migratory fish species managed by the International Commission for the Conservation of Atlantic Tunas (ICCAT).

⁽¹⁾ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

⁽²⁾ Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy (OJ L 112, 30.4.2011, p. 1).

⁽³⁾ Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

⁽⁴⁾ Commission Delegated Regulation (EU) 2015/98 of 18 November 2014 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the International Convention for the Conservation of Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (OJ L 16, 23.1.2015, p. 23).

⁽⁵⁾ Council Regulation (EC) No 1984/2003 of 8 April 2003 introducing a system for the statistical monitoring of trade in swordfish and bigeye tuna within the Community (OJ L 295, 13.11.2003, p. 1).

*Article 2***Scope**

This Regulation applies to:

- (a) Union fishing vessels, and Union vessels engaged in recreational fisheries, which operate in the ICCAT Convention area and, in the case of transhipments, also outside the ICCAT Convention area if they tranship species caught in that area;
- (b) third country vessels which are inspected in Member States ports and which carry ICCAT species or fishery products originating from such species that have not been previously landed or transhipped at ports;
- (c) third country fishing vessels and third country vessels engaged in recreational fisheries which operate in Union waters.

*Article 3***Relationship to other Union acts**

This Regulation applies without prejudice to the provisions laid down in a Regulation of the European Parliament and of the Council on the sustainable management of external fishing fleets ⁽¹⁾ and in Regulation (EU) 2016/1627.

The measures provided for in this Regulation apply in addition to those provided for in Regulations (EC) No 1005/2008 and (EC) No 1224/2009.

*Article 4***Definitions**

For the purpose of this Regulation, the following definitions apply:

- (1) 'ICCAT species' means species listed in Annex I;
- (2) 'tropical tuna' means bigeye tuna, yellowfin tuna and skipjack tuna;
- (3) 'fishing vessel' means any vessel equipped for commercial exploitation of marine biological resources or a bluefin tuna trap;
- (4) 'catching vessel' means a fishing vessel used for the purpose of the capture of marine biological resources;
- (5) 'Union fishing vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;
- (6) 'fishing authorisation' means an authorisation issued in respect of a Union fishing vessel entitling it to carry out specific fishing activities during a specified period, in a given area or for a given fishery under specific conditions;
- (7) 'special fishing authorisation' means an authorisation issued in respect of a Union fishing vessel entitling it to carry out specific fishing activities with specific gear during a specified period, in a given area or for a given fishery under specific conditions;
- (8) 'transhipment' means the unloading of all or any fisheries products on board a vessel to another vessel;
- (9) 'recreational fishery' means non-commercial fishing activities exploiting marine biological resources for recreation, tourism or sport;
- (10) 'Task I data' means data defined as Task I by ICCAT in the 'Field manual for statistics and sampling Atlantic tunas and tuna-like fish';
- (11) 'Task II data' means data defined as Task II by ICCAT in the 'Field manual for statistics and sampling Atlantic tunas and tuna-like fish';
- (12) 'CPC' means contracting parties to the ICCAT Convention and cooperating non-contracting parties, entities or fishing entities;
- (13) 'ICCAT Convention area' means all waters of the Atlantic Ocean and adjacent seas;

⁽¹⁾ Procedure number 2015/0289(COD), not yet published in the Official Journal.

- (14) 'sustainable fisheries partnership agreement' means an international agreement as defined in point 37 of Article 4(1) of Regulation (EU) No 1380/2013;
- (15) 'vessel length' means the distance measured in a straight line between the foremost point of the bow and the aftermost point of the stern;
- (16) 'large-scale pelagic longline vessel' means a pelagic longline vessel greater than 24 metres in length overall;
- (17) 'large-scale fishing vessel' means a fishing vessel greater than 20 metres in length overall;
- (18) 'large-scale catching vessel' means a catching vessel greater than 20 metres in length overall;
- (19) 'ICCAT record of large-scale fishing vessels' means the list, maintained by the ICCAT Secretariat, of large-scale fishing vessels authorised to target ICCAT species in the ICCAT Convention area;
- (20) 'support vessel' means a vessel other than a craft carried on board that is not equipped with an operational fishing gear and that facilitates, assists or prepares fishing activities, including by supplying a catching vessel;
- (21) 'carrier vessel' means a support vessel engaged in transshipment and receiving ICCAT species from a large-scale pelagic longline vessel;
- (22) 'ICCAT record of carrier vessels' means the list, maintained by the ICCAT Secretariat, of vessels authorised to receive transshipment at sea from large-scale pelagic longline vessels in the ICCAT Convention area;
- (23) 'ICCAT record of authorised tropical tunas vessels' means the list, maintained by the ICCAT Secretariat, of large-scale fishing vessels authorised to fish, retain on board, tranship, transport, process or land tropical tunas in the ICCAT Convention area;
- (24) 'fish-aggregating device' (FAD) means any equipment which is floating on the sea surface and is deployed with the objective of attracting fish;
- (25) 'IUU fishing' means fishing activities defined in point 1 of Article 2 of Regulation (EC) No 1005/2008;
- (26) 'ICCAT IUU list' means a list of vessels which are considered by ICCAT to have engaged in IUU fishing;
- (27) 'longlines' means a fishing gear which comprises a main line carrying numerous hooks on branch lines (snoods) of variable length and spacing depending on the target species;
- (28) 'purse seines' means any encircling net the bottom of which is drawn together by means of a purse line at the bottom of the net, which passes through a series of rings along the groundrope, enabling the net to be pursed and closed;
- (29) 'hook' means a bent, sharpened piece of steel wire.

TITLE II

MANAGEMENT, CONSERVATION AND CONTROL MEASURES CONCERNING CERTAIN SPECIES

CHAPTER I

Tropical tunas

Article 5

Restrictions on the number of Union large-scale catching vessels targeting bigeye tuna

The number and total capacity in gross tonnage (GT) of Union large-scale catching vessels targeting bigeye tuna in the ICCAT Convention area shall be determined:

- (a) as the average number and the capacity in GT of Union catching vessels targeting bigeye tuna in the ICCAT Convention area during the period 1991 to 1992; and
- (b) on the basis of the restriction on the number of Union catching vessels targeting bigeye tuna in 2005 as notified to ICCAT on 30 June 2005.

*Article 6***Specific authorisations for large-scale tropical tuna catching vessels and for support vessels**

1. Member States shall issue authorisations, in accordance with the provisions laid down in a Regulation of the European Parliament and of the Council on the sustainable management of external fishing fleets ⁽¹⁾, to large-scale catching vessels flying their flag to fish tropical tunas in the ICCAT Convention area.
2. Member States shall issue authorisations to support vessels flying their flag used for any kind of support to vessels referred to in paragraph 1.

*Article 7***ICCAT record of authorised tropical tuna vessels**

1. Member States shall notify the Commission, without delay and at the latest within 30 days, of any event requiring an addition to, deletion from or modification of the ICCAT record of authorised tropical tuna vessels. The Commission shall, without delay and at the latest within 45 days from the date of such event, submit that information to the ICCAT Secretariat.
2. Large-scale fishing vessels not entered into the ICCAT record of authorised tropical tuna vessels shall not be allowed to fish, retain on board, tranship, transport, transfer, process or land tropical tunas from the ICCAT Convention area. Article 15(1) of Regulation (EU) No 1380/2013 shall not apply in such cases.

*Article 8***List of vessels fishing tropical tunas in a given year**

Member States shall, by 30 June of each year, submit to the Commission the list of authorised vessels flying their flag which have fished for tropical tunas in the ICCAT Convention area in the previous calendar year. The Commission shall, by 31 July of each year, notify ICCAT of the lists received from the Member States.

*Article 9***Management plans in respect of fish-aggregating devices**

1. In respect of purse seine and baitboat catching vessels fishing for tropical tunas in association with fish-aggregating devices (FADs), Member States shall, by 31 December of each year, submit to the Commission management plans for the use of such FADs by vessels flying their flag. The Commission shall forward that information to the ICCAT Secretariat by 31 January of the following year.
2. The objective of the management plans referred to in paragraph 1 shall be to:
 - (a) improve the knowledge about FAD characteristics, buoy characteristics, FAD fishing, including fishing effort, and related impacts on targeted and non-targeted species;
 - (b) effectively manage the deployment and recovery of FADs and beacons and their potential loss;
 - (c) reduce and limit the impacts of FADs and FAD fishing on the ecosystem, including, where appropriate, by acting on the different components of the fishing mortality (e.g. number of deployed FADs, including number of FAD sets by purse seiners, fishing capacity, number of support vessels).
3. The management plans referred to in paragraph 1 shall contain the information set out in Annex II.
4. Member States shall ensure that no more than 500 instrumental buoys are active at any one time for each purse seiner flying their flag and fishing for tropical tunas in association with FADs.

⁽¹⁾ Procedure number 2015/0289(COD), not yet published in the Official Journal.

*Article 10***Requirements for FADs**

1. FADs shall comply with the following requirements:
 - (a) the surface structure of the FAD shall be either not covered by any material or covered only with material implying minimum risk of entangling non-targeted species; and
 - (b) the sub-surface components shall be exclusively composed of material which does not entangle non-targeted species.
2. When designing FADs, biodegradable materials shall, if possible, be prioritised with a view to phasing out non-biodegradable FADs by 2018.
3. Member States shall report to the Commission, as part of the annual report referred to in Article 71, on the steps undertaken to ensure compliance with paragraphs 1 and 2 of this Article. The Commission shall forward that information to the ICCAT Secretariat.

*Article 11***Information on FADs submitted by vessels**

1. For each deployment of a FAD, Union purse seine and baitboat catching vessels and Union support vessels shall collect and report the following information and data:
 - (a) position of the FAD;
 - (b) date of deployment of the FAD;
 - (c) FAD type (anchored FAD, drifting artificial FAD);
 - (d) FAD identifier (i.e. FAD marking or beacon ID, type of buoy — e.g. simple buoy or associated with echo sounder), or any information allowing identification of the owner;
 - (e) FAD design characteristics (dimension and material of the floating part and of the underwater hanging structure, and the entangling feature of the underwater hanging structure).
2. For each visit on a FAD, whether followed or not by a set, Union purse seine and baitboat catching vessels and Union support vessels shall collect and report the following information:
 - (a) type of visit (hauling, retrieving, intervention on electronic equipment);
 - (b) position of the FAD;
 - (c) date of visit;
 - (d) FAD type (anchored FAD, drifting natural FAD, drifting artificial FAD);
 - (e) FAD identifier (i.e. FAD marking or beacon ID) or any information allowing identification of the owner;
 - (f) if the visit is followed by a set, the results of the set in terms of catch and by-catch, whether retained or discarded, dead or alive, or, if the visit is not followed by a set, the reason for such decision (for instance not enough fish or fish too small).
3. For each loss of a FAD, Union purse seine and baitboat catching vessels and Union support vessels shall collect and report the following information:
 - (a) the last registered position;
 - (b) date of the last registered position;
 - (c) FAD identifier (i.e. FAD marking or beacon ID), or any information allowing identification of the owner.
4. Union fishing vessels shall keep a list of deployed FADs, updated on a quarterly basis, containing at least the information set out in Annex III.

*Article 12***Information on FADs submitted by Member States**

Member States shall submit every year to the Commission, 15 days prior to the deadline established by ICCAT for the given year, the following information, in order to make it available to the ICCAT Secretariat:

- (a) the number of FADs actually deployed, on a quarterly basis, by FAD type, indicating the presence or absence of a beacon/buoy or of an echo sounder associated to the FAD;
- (b) the number and type of beacons/buoys (e.g. radio, with echo sounder) actually deployed, on a quarterly basis;
- (c) the average numbers of active beacons/buoys, on a quarterly basis, that have been followed by each vessel;
- (d) average numbers of active FADs lost, on a quarterly basis;
- (e) for each support vessel, the number of days spent at sea, per 1° grid area, month and flag Member State.

*Article 13***Logbooks**

Member States shall ensure that:

- (a) paper and electronic fishing logbooks, as well as FAD logbooks, where applicable, are promptly collected and made available to Union scientists;
- (b) the Task II data transmitted to the Commission pursuant to Article 50 include the information collected from the fishing or FAD logbooks, where applicable.

*Article 14***Time and area closure in relation with the protection of juveniles**

1. Targeting for, or supporting activities to target tropical tunas in association with objects that could affect fish aggregation, including FADs, shall be prohibited:

- (a) from 1 January to 28 February each year; and
- (b) in the area delineated as follows:
 - Northern limit — Parallel 5° North latitude,
 - Southern limit — Parallel 4° South latitude,
 - Western limit — Meridian 20° West longitude,
 - Eastern limit — the African coast.

2. The prohibition referred to in paragraph 1 shall include:

- (a) launching any floating objects, with or without buoys;
- (b) fishing around, under, or in association with artificial objects, including vessels;
- (c) fishing around, under, or in association with natural objects;
- (d) towing floating objects from inside to outside the area.

3. Each Member State whose vessels fish in the geographical area of the time and area closure shall:

- (a) take appropriate action to ensure that all vessels flying its flag, including support vessels, when engaged in fishing activities during the time and area closure referred to in paragraph 1 of this Article, have an observer on board. The observer programme shall comply with Annex IV to this Regulation, without prejudice to Article 73 of Regulation (EC) No 1224/2009;
- (b) submit the information collected by the observers referred to in point (a) every year by 30 June to the Commission who shall notify ICCAT by 31 July;
- (c) take appropriate action against fishing vessels flying its flag that do not comply with the time and area closure referred to in paragraph 1;
- (d) submit a report on the compliance with the time and area closure to the Commission as part of its annual report referred to in Article 71.

*Article 15***Fishing for tropical tunas in certain Portuguese waters**

It shall be prohibited to retain on board any quantity of tropical tunas caught using purse seines in waters under the sovereignty or jurisdiction of Portugal in ICES subarea X north of 36°30' N or in CECAF areas north of 31° N and east of 17°30' W, or to target such species in those areas with those gear. Article 15(1) of Regulation (EU) No 1380/2013 shall not apply in such cases.

*Article 16***Identification of IUU fishing**

If the ICCAT Executive Secretary notifies the Commission of a possible violation by Union fishing vessels of Article 7(2) and Article 14(1) and (2), the Commission shall without delay inform the flag Member State concerned. That Member State shall immediately investigate the situation and, if the vessel is fishing in association with objects that could affect fish aggregation, including FADs, shall request the vessel to stop fishing and, if necessary, leave the area without delay. The flag Member State concerned shall without delay report to the Commission the results of its investigation and the corresponding measures taken. The Commission shall forward that information to the coastal State and to the ICCAT Executive Secretary.

*CHAPTER II***North Atlantic albacore***Article 17***Restrictions on the number of vessels**

The maximum number of Union catching vessels targeting North Atlantic albacore in the ICCAT Convention area shall be determined as the average number of Union catching vessels fishing for North Atlantic albacore as a target species during the period 1993 to 1995.

*CHAPTER III***Swordfish***Section 1***Swordfish in the Atlantic***Article 18***Management plans for North Atlantic swordfish**

Member States that have been allocated a quota and whose vessels are fishing for North Atlantic swordfish shall submit to the Commission their management plans by 15 August of each year. The Commission shall forward that information to the ICCAT Secretariat by 15 September of each year.

*Article 19***Minimum size for North Atlantic swordfish**

1. Targeting, retaining on board or transshipping, landing, transporting, storing, displaying or offering for sale, selling or marketing swordfish of less than 25 kg live weight, or, alternatively, 125 cm of lower jaw fork length, shall be prohibited. Article 15(1) of Regulation (EU) No 1380/2013 shall not apply in such cases.
2. By way of derogation from paragraph 1, incidental catches of maximum 15 % of swordfish weighing less than 25 kg live weight or 125 cm of lower jaw fork length may be retained on board, transhipped, transferred, landed, transported, stored, sold, displayed or offered for sale.
3. The tolerance of 15 % referred to in paragraph 2 shall be calculated on the basis of the number of swordfish of the vessel's total swordfish catch per landing.

Section 2

Swordfish in the Mediterranean*Article 20***Vessels authorised to target Mediterranean swordfish**

1. Member States shall issue authorisations, in accordance with the provisions laid down in a Regulation of the European Parliament and of the Council on the sustainable management of external fishing fleets ⁽¹⁾, to target Mediterranean swordfish.
2. By 8 January of each year, Member States shall submit to the Commission in the format set out in the Guidelines for submitting data and information required by ICCAT:
 - (a) a list of catching vessels flying their flag authorised to target Mediterranean swordfish;
 - (b) a list of vessels authorised by them to target Mediterranean swordfish in the course of recreational fisheries.
3. The Commission shall forward the information referred to in points (a) and (b) of paragraph 2 to the ICCAT Secretariat by 15 January of each year.
4. Member States shall notify the Commission, without delay and at the latest within 30 days, of any addition to, deletion from or modification of the lists of vessels referred to in points (a) and (b) of paragraph 2. The Commission shall, without delay and at the latest within 45 days from the date of the addition to, deletion from or modification of those lists, submit that information to the ICCAT Secretariat.

*Article 21***By-catch**

Union catching vessels not included in the list referred to in point (a) of Article 20(2) shall not be authorised to catch, retain on board, tranship, transport, process or land swordfish exceeding 5 % of the total catch on board by weight and/or number of pieces.

*Article 22***Special fishing authorisation**

1. Union catching vessels included in the list referred to in point (a) of Article 20(2) and which use harpoons or longlines shall have a special fishing authorisation.
2. By 30 June of each year, Member States shall submit electronically to the Commission the list of authorisations referred to in paragraph 1 and delivered for the previous year. The Commission shall forward that information to the ICCAT Secretariat by 31 July of each year.

*Article 23***Closed fishing seasons**

1. Mediterranean swordfish shall not be caught (either as targeted species or as by-catch), retained on board, transhipped or landed during the periods from 1 to 31 March and from 1 October to 30 November of each year.
2. Member States shall monitor the effectiveness of the closure and shall submit to the Commission by 15 August of each year all relevant information on appropriate controls and inspections carried out to ensure the compliance with paragraph 1. The Commission shall forward that information to the ICCAT Secretariat at least two months before the ICCAT annual meeting.

*Article 24***Minimum size for Mediterranean swordfish**

1. Only entire specimens of swordfish, without removal of any external part, or gilled and gutted specimens, may be retained on board, transhipped, landed and transported.

⁽¹⁾ Procedure number 2015/0289(COD), not yet published in the Official Journal.

2. Catching, retaining on board, transshipping, landing, transporting, storing, displaying or offering for sale of Mediterranean swordfish measuring less than 90 cm of lower jaw fork length or, alternatively, weighing less than 10 kg of round weight or 9 kg of gilled and gutted weight, or 7,5 kg of dressed weight (gilled, gutted, fins off, part of head off), shall be prohibited.
3. By way of derogation from paragraph 2, incidental catches of Mediterranean swordfish below the minimum size set out in that paragraph may be retained on board, transhipped, landed, transported, stored, displayed or offered for sale if they do not exceed 5 % by weight or number of pieces per landing of the total Mediterranean swordfish catch on board the vessel.

Article 25

Technical specifications of the fishing gear for vessels authorised to target Mediterranean swordfish

1. By way of derogation from Article 12 of Council Regulation (EC) No 1967/2006 ⁽¹⁾, the maximum number of hooks that may be set by or taken on board of vessels targeting Mediterranean swordfish shall be fixed at 2 800 hooks.
2. In addition to the maximum number referred to in paragraph 1, a second set of rigged hooks may be allowed on board for trips longer than two days provided that it is duly lashed and stowed in lower decks so that it may not readily be used.
3. Hook size shall not be smaller than 7 cm of height.
4. The length of the pelagic longlines shall not exceed 30 nautical miles (55,56 km).

Article 26

Reporting obligations for Mediterranean swordfish

1. Member States shall submit to the Commission, by 30 June of each year, the following information concerning catching vessels flying their flag that were authorised to carry out pelagic longline fisheries or harpoon fisheries targeting Mediterranean swordfish during the preceding year:
 - (a) information on the catching vessel:
 - (i) name of the vessel (in the absence of the name, the registry number without country initials shall be indicated);
 - (ii) Union fleet register number as defined in Annex I to Commission Implementing Regulation (EU) 2017/218 ⁽²⁾;
 - (iii) ICCAT record number;
 - (b) information related to fishing activities, based on sampling or on the whole fleet:
 - (i) fishing period(s) and total annual number of fishing days of the vessel, by target species and area;
 - (ii) geographical areas, by ICCAT statistical rectangles, for the fishing activities carried out by the vessel, by target species and area;
 - (iii) type of vessel, by target species and area;
 - (iv) number of hooks used by the vessel, by target species and area;
 - (v) number of longline units used by the vessel, by target species and area;
 - (vi) overall length of all longline units for the vessel, by target species and area;
 - (c) data on the catches, in the smallest time-area possible:
 - (i) size and, if possible, age distributions of the catches;
 - (ii) catches and catch composition per vessel;
 - (iii) fishing effort (average fishing days per vessel, average number of hooks per vessel, average longline units per vessel, average overall length of longline per vessel).
2. The information referred to in paragraph 1 shall be submitted in the format established by ICCAT.
3. The Commission shall forward the information referred to in paragraph 1 to the ICCAT Secretariat by 31 July of each year.

⁽¹⁾ Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94 (OJ L 409, 30.12.2006, p. 11).

⁽²⁾ Commission Implementing Regulation (EU) 2017/218 of 6 February 2017 on the Union fishing fleet register (OJ L 34, 9.2.2017, p. 9).

CHAPTER IV

Blue marlin and white marlin in the Atlantic

Article 27

Release of blue marlin and white marlin caught alive

1. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, when their quota is being approached, Member States shall ensure that vessels flying their flag release all blue marlin (*Makaira nigricans*) and white marlin (*Tetrapturus albidus*) that are alive by the time of boarding.
2. Member States referred to in paragraph 1 shall take appropriate measures to ensure that blue marlin and white marlin are released in a manner that maximise their chances of survival.

Article 28

Landing of blue marlin and white marlin beyond the fishing opportunities

When a Member State has exhausted its quota, that Member State shall ensure that the landings of blue marlin and white marlin that are dead when brought alongside the vessel are not sold or entered into commerce. Such landings shall not count against that Member State's catch limits as set out in paragraph 1 of ICCAT Recommendation 2015-05, provided that such prohibition is clearly explained in the annual report referred to in Article 71 of this Regulation.

Article 29

Recreational fisheries of blue marlin and white marlin

1. Member States whose vessels are engaged in recreational fisheries of blue marlin and white marlin shall maintain a 5 % scientific observer coverage of blue marlin and white marlin tournament landings.
2. In recreational fisheries of blue marlin a minimum conservation size of 251 cm lower jaw fork length shall apply.
3. In recreational fisheries of white marlin a minimum conservation size of 168 cm lower jaw fork length shall apply.
4. It shall be prohibited to sell or to offer for sale any part or whole carcass of blue marlin or white marlin caught in recreational fisheries.

CHAPTER V

Sharks

Article 30

General provisions

1. In fisheries that are not targeting sharks, live sharks that are caught incidentally and are not used for food or subsistence shall be released.
2. Member States shall, where possible, carry out research on shark species caught in the ICCAT Convention area in order to improve the selectivity of fishing gear, to identify potential nursery areas and consider time and area closure and other measures, as appropriate. Such research shall provide information on key biological and ecological parameters, life-history and behavioural traits, as well as on the identification of potential mating, pupping and nursery grounds.

Article 31

Porbeagle sharks (*Lamna nasus*)

1. Retaining on board, transshipping or landing any part or whole carcass of porbeagle sharks caught in association with ICCAT fisheries shall be prohibited.
2. Union catching vessels shall promptly release, unharmed, porbeagle sharks caught in association with ICCAT fisheries when brought alongside the vessel.

Article 32

Bigeye thresher sharks (*Alopias superciliosus*)

1. Retaining on board, transshipping or landing any part or whole carcass of bigeye thresher sharks caught in association with ICCAT fisheries shall be prohibited.
2. Union catching vessels shall promptly release, unharmed, bigeye thresher sharks caught in association with ICCAT fisheries when brought alongside the vessel.

Article 33

Shortfin mako sharks (*Isurus oxyrinchus*)

Member States shall take appropriate measures to reduce fishing mortality in fisheries targeting shortfin mako sharks and shall report to the Commission, as part of the annual report referred to in Article 71, about the progress made.

Article 34

Oceanic whitetip shark (*Carcharhinus longimanus*)

1. Retaining on board, transshipping or landing any part or whole carcass of oceanic whitetip sharks caught in association with ICCAT fisheries shall be prohibited.
2. Union catching vessels shall promptly release, unharmed, oceanic whitetip sharks caught in association with ICCAT fisheries when brought alongside the vessel.

Article 35

Hammerhead sharks

1. Retaining on board, transshipping or landing any part or whole carcass of hammerhead sharks of the *Sphyrnidae* family (except *Sphyrna tiburo*) caught in association with ICCAT fisheries shall be prohibited.
2. Union catching vessels shall promptly release, unharmed, hammerhead sharks caught in association with ICCAT fisheries when brought alongside the vessel.

Article 36

Silky sharks (*Carcharhinus falciformis*)

1. Retaining on board, transshipping or landing any part or whole carcass of silky sharks caught in association with ICCAT fisheries shall be prohibited.
2. Union catching vessels shall promptly release, unharmed, silky sharks caught in association with ICCAT fisheries, at the latest before putting the catch into the fish holds, giving due consideration to the safety of crew members.
3. Union purse seiners engaged in ICCAT fisheries shall take additional measures to increase the survival rate of silky sharks caught incidentally. Member States shall report to the Commission, as part of the annual report referred to in Article 71, about the progress made.

Article 37

Sampling of shark species by scientific observers and other authorised individuals

1. By way of derogation from the prohibition to retain on board porbeagle, bigeye thresher, oceanic whitetip, hammerhead (of the *Sphyrnidae* family, except for the *Sphyrna tiburo*) and silky sharks, as set out in Articles 31, 32, 34, 35 and 36, the collection of biological samples during commercial fishing operations by scientific observers or individuals authorised by the CPC to collect biological samples shall be permitted under the following conditions:
 - (a) the biological samples are collected only from animals which are dead at the haul back;

- (b) the biological samples are taken in the framework of a research project notified to the Standing Committee on Research and Statistics of the ICCAT and developed taking into consideration the recommended research priorities of that Committee. The research project should include a detailed document that describes the objective of the project, the methodologies to be used, the number and type of samples to be collected and the time and area of sampling;
 - (c) the biological samples are kept on board until the port of landing or transshipment; and
 - (d) the authorisation of the flag Member State or, in the case of chartered vessels, of the chartering CPC and the flag Member State, must accompany all samples collected in accordance with this Article until the final port of landing. Such samples and other parts of the shark specimens sampled shall not be marketed or sold.
2. The biological samples referred to in paragraph 1 may include, in particular, vertebrae, tissue, reproductive tracts, stomachs, skin samples, coil valves, jaws, whole fish or skeletons for taxonomic studies and fauna inventories.
 3. The sampling campaign may only start once the authorisation by the Member State concerned has been issued.

CHAPTER VI

Seabirds

Article 38

Mitigation measures for seabirds in the area between 20° South and 25° South

1. All vessels fishing between 20° and 25° South shall carry and use bird-scaring lines (tori lines) and tori poles that meet the requirements and supplemental guidelines set out in Annex V.
2. Tori lines shall be deployed prior to longlines entering the water, at all times.
3. Where practical, a second tori pole and tori line shall be used at times of high bird abundance or activity.
4. Back-up tori lines shall be carried by all vessels and be ready for immediate use.
5. Longline vessels targeting swordfish by using monofilament longline gear shall be exempted from the requirements of paragraphs 1, 2 and 3, subject to the following conditions:
 - (a) longlines are set during the night, with night being defined as the period between nautical dusk/dawn as referenced in the nautical dusk/dawn almanac for the geographical position of fishing; and
 - (b) minimum swivel weight of 60 g placed not more than 3 metres from the hook is used to achieve optimum sink rates.

The flag Member States of the vessels subject to the exemption referred to in the first subparagraph shall inform the Commission of their scientific findings resulting from their observer coverage of those vessels.

Article 39

Mitigation measures for seabirds in the area south of 25° South

Longline vessels shall use at least two of the following mitigation measures in accordance with the requirements and supplemental guidelines set out in Annex V:

- (a) night setting with minimum deck lighting;
- (b) bird-scaring lines (tori lines);
- (c) line weighting.

Article 40

Reporting obligations for seabirds

1. Longline vessels shall collect and provide to their flag Member State information on interactions with seabirds, including incidental catches. Member States shall submit that information to the Commission by 30 June of each year. The Commission shall forward that information to the ICCAT Secretariat without delay.
2. Member States shall inform the Commission on the implementation of the measures laid down in Articles 38 and 39 and on the progress of the implementation of the Union action plan for reducing incidental catches of seabirds in fishing gear.

CHAPTER VII

Sea turtles

Article 41

General provisions for sea turtles

1. Purse seiners shall avoid encircling sea turtles and shall release encircled or entangled sea turtles, including on FADs. They shall report interactions between purse seines or FADs and sea turtles to their flag Member State.
2. Pelagic longline vessels shall carry and use safe-handling, disentanglement and release equipment capable of releasing sea turtles in a manner that maximises their chances of survival.
3. Fishermen on pelagic longline vessels shall use the equipment referred to in paragraph 2 in accordance with Annex VI, in order to maximise the chances of sea turtle survival.
4. Member States shall train fishermen on pelagic longline vessels in safe handling and release techniques.

Article 42

Reporting obligations for sea turtles

1. Member States shall collect and transmit to the Commission, by 30 June of each year, the information on the interactions of their vessels with sea turtles in ICCAT fisheries by gear type. The Commission shall forward that information to the ICCAT Secretariat by 31 July of each year. That information shall include:
 - (a) catch rates, gear characteristics, times and locations, target species and disposition status (i.e. discarded dead or released alive);
 - (b) a breakdown of interactions by sea turtle species; and
 - (c) the nature of the hooking or entanglement (including with FADs), bait type, hook size and type, and the size of the animal.
2. Member States shall report to the Commission, as part of the annual report referred to in Article 71, on the implementation of Article 41 and on other relevant actions taken to implement, with respect to ICCAT fisheries, the Guidelines to reduce sea turtle mortality in fishing operations published in 2010 by the Food and Agriculture Organization (FAO).

CHAPTER VIII

Fishing opportunities for bluefin tuna and swordfish

Article 43

General principle

In accordance with Article 17 of Regulation (EU) No 1380/2013, when allocating the fishing opportunities for bluefin tuna and swordfish stocks available to them, Member States shall use transparent and objective criteria, including those of an environmental, social and economic nature, and shall also endeavour to distribute national quotas fairly among the various fleet segments giving special consideration to traditional and artisanal fishing, and to provide incentives to Union fishing vessels deploying selective fishing gear or using fishing techniques with reduced environmental impact.

TITLE III

COMMON CONTROL MEASURES

CHAPTER I

Authorisations

Article 44

ICCAT record of large-scale fishing vessels

1. Member States shall issue authorisations, in accordance with the provisions laid down in a Regulation of the European Parliament and of the Council on the sustainable management of external fishing fleets ⁽¹⁾, to large-scale fishing vessels flying their flag to target, retain on board, tranship or land ICCAT species in the ICCAT Convention area.

⁽¹⁾ Procedure number 2015/0289(COD), not yet published in the Official Journal.

2. Member States shall submit to the Commission, at the time of authorisation, the lists of large-scale fishing vessels authorised pursuant to paragraph 1. The Commission shall without delay submit that information to the ICCAT Secretariat for inclusion in the ICCAT record of large-scale fishing vessels.
3. Member States shall notify the Commission, without delay and at the latest within 30 days, of any event requiring an addition to, deletion from or modification of the ICCAT record of large-scale fishing vessels. The Commission shall, at the latest within 45 days from the date of such event, submit that information to the ICCAT Secretariat.
4. Large-scale fishing vessels not entered into the ICCAT record of large-scale fishing vessels shall not be allowed to target, retain on board, tranship or land ICCAT species from the ICCAT Convention area. Article 15(1) of Regulation (EU) No 1380/2013 shall not apply in such cases.

CHAPTER II

Chartering

Article 45

Scope

This Chapter shall apply to chartering arrangements, other than bareboat chartering, between Union catching vessels and those of CPCs, where the Union catching vessels concerned do not change their flag.

Article 46

General provisions

1. Union catching vessels shall be allowed to participate in a chartering arrangement concluded with CPCs only as chartered vessels, subject to the following conditions:
 - (a) the chartered vessels shall have a fishing authorisation issued by the chartering CPC and shall not be on the ICCAT IUU list;
 - (b) the chartered vessels shall not be authorised to fish under more than one chartering arrangement at the same time;
 - (c) the catches of the chartered vessels shall be unloaded exclusively in the ports of the chartering CPCs, unless otherwise provided for in the chartering arrangement; and
 - (d) the chartering company shall be legally established in the chartering CPC.
2. Any transshipment at sea shall be duly authorised in advance by the chartering CPC and shall comply with Chapter IV of this Title.

Article 47

Notification

1. At the time the chartering arrangement is made, the flag Member State shall notify the Commission of its consent to the chartering arrangement.
2. If, within 15 calendar days of the transmission to the Commission of the notification referred to in paragraph 1, the Commission has not required further information, the chartered vessel may start the fishing activities concerned.
3. The flag Member State shall inform the Commission without delay about the termination of each charter.
4. The Commission shall forward without delay the information referred to in paragraphs 1 and 3 to the ICCAT Secretariat.

CHAPTER III

Control of catches

Article 48

Compliance with quotas and minimum size requirements

1. By 20 August of each year Member States shall submit to the Commission information on the catches of ICCAT species during the previous year subject to quotas and on the compliance with minimum sizes.

2. The Commission shall forward that information to the ICCAT Secretariat by 15 September of each year.

Article 49

Catch sampling

1. Sampling of catches for the purposes of improving the knowledge on the biology of the relevant ICCAT species and of estimating the necessary parameters for their evaluation shall be carried out in accordance with Regulation (EU) 2017/1004 of the European Parliament and of the Council ⁽¹⁾, Commission Implementing Decision (EU) 2016/1251 ⁽²⁾ and the 'Field manual for statistics and sampling Atlantic tunas and tuna-like fishes' published in 1990 by ICCAT.
2. The Commission may adopt implementing acts as regards detailed requirements for the catch sampling referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 75(2).

Article 50

Catch and fishing effort notification

1. Unless otherwise established by the Commission to meet annual deadlines set by ICCAT, Member States shall transmit to the Commission, by 30 June of each year, the following data (Task I data):
 - (a) information on the characteristics of their fleet for the previous year;
 - (b) estimates of the annual nominal catch data (including by-catch and discards data) concerning ICCAT species for the previous year.
2. Unless otherwise established by the Commission to meet annual deadlines set by ICCAT, Member States shall transmit to the Commission, by 30 June of each year, the following data (Task II data) for the ICCAT species:
 - (a) catch and fishing effort data for the previous year, giving a detailed spatio-temporal breakdown; those data shall include estimates of discards and releases with the indication of the status of the fish (dead or alive);
 - (b) any data they have on catches in recreational fisheries for the previous year.
3. The Commission shall forward the information referred to in paragraphs 1 and 2 to the ICCAT Secretariat without delay.
4. The Commission may adopt implementing acts as regards detailed requirements for the Task I and II data referred to in paragraphs 1 and 2 of this Article respectively. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 75(2).

CHAPTER IV

Transshipment

Article 51

Scope

1. This Chapter shall apply to the following transshipment operations:
 - (a) transshipment operations carried out within the ICCAT Convention area in respect of ICCAT species and other species caught in association with those species; and
 - (b) transshipment operations carried out outside the ICCAT Convention area in respect of ICCAT species and other species caught in association with those species, that were harvested in the ICCAT Convention area.

⁽¹⁾ Regulation (EU) 2017/1004 of the European Parliament and of the Council of 17 May 2017 on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy and repealing Council Regulation (EC) No 199/2008 (OJ L 157, 20.6.2017, p. 1).

⁽²⁾ Commission Implementing Decision (EU) 2016/1251 of 12 July 2016 adopting a multiannual Union programme for the collection, management and use of data in the fisheries and aquaculture sectors for the period 2017-2019 (OJ L 207, 1.8.2016, p. 113).

2. By way of derogation from point (b) of paragraph 1, this Chapter shall not apply to transshipments at sea outside the ICCAT Convention area of fish caught in the ICCAT Convention area, where such transshipment is subject to a programme for transshipment established by another tuna RFMO.
3. This Chapter shall not apply to harpoon vessels engaged in the transshipment of fresh swordfish at sea.

Article 52

Transshipment in port

1. All transshipment operations shall take place in designated ports, except those carried out by large-scale pelagic longline vessels pursuant to Articles 53 to 60.
2. Union fishing vessels shall comply with the obligations set out in Annex VII when carrying out transshipments in port.
3. This Article shall be without prejudice to Articles 17 to 22 of Regulation (EC) No 1224/2009 and Articles 4, 6, 7 and 8 of Regulation (EC) No 1005/2008.

Article 53

Transshipment at sea

Transshipment at sea by large-scale pelagic longline vessels shall take place in accordance with Articles 54 to 60.

Article 54

ICCAT record of carrier vessels

1. Member States shall issue authorisations, in accordance with the provisions laid down in a Regulation of the European Parliament and of the Council on the sustainable management of external fishing fleets ⁽¹⁾, to carrier vessels to receive transshipments at sea from large-scale pelagic longline vessels in the ICCAT Convention area.
2. Member States shall submit to the Commission, at the time of authorisation, the lists of carrier vessels authorised pursuant to paragraph 1. The Commission shall without delay submit that information to the ICCAT Secretariat for inclusion in the ICCAT record of carrier vessels.
3. Flag Member States shall promptly notify the Commission of any addition to, any deletion from or any modification to, their lists of carrier vessels. The Commission shall without delay submit that information to the ICCAT Secretariat.
4. The notification referred to in paragraphs 2 and 3 shall reflect the format and layout established by the ICCAT Secretariat and shall include the following information:
 - name of vessel, register number,
 - ICCAT record number (if any),
 - IMO number (if any),
 - previous name (if any),
 - previous flag (if any),
 - previous details of deletion from other registries (if any),
 - international radio call sign,
 - type of vessel, length, gross registered tonnage and carrying capacity,
 - name and address of owner(s) and operator(s),
 - time period authorised for transshipping.
5. Transshipment at sea referred to in Article 53 may only be received by carrier vessels entered on the ICCAT record of carrier vessels.

⁽¹⁾ Procedure number 2015/0289(COD), not yet published in the Official Journal.

*Article 55***Authorisation to large-scale pelagic longline vessels to tranship in the ICCAT Convention area**

1. Member States shall issue authorisations, in accordance with the provisions of a Regulation of the European Parliament and of the Council on the sustainable management of external fishing fleets ⁽¹⁾, to large-scale pelagic longline vessels flying their flag to tranship at sea.
2. Member States shall submit to the Commission, at the time of authorisation, the lists of large-scale pelagic longline vessels authorised pursuant to paragraph 1. The Commission shall without delay submit that information to the ICCAT Secretariat.
3. Flag Member States shall promptly notify the Commission of any addition to, any deletion from or any modification to, their lists of large-scale pelagic longline vessels authorised to tranship at sea. The Commission shall without delay submit that information to the ICCAT Secretariat.
4. The notification referred to in paragraphs 2 and 3 shall reflect the format and layout established by the ICCAT Secretariat and shall include the following information:
 - name of vessel, register number,
 - ICCAT record number,
 - time period authorised for transshipping at sea,
 - flag(s), name(s) and register number(s) of the carrier vessel(s) authorised for use by the large-scale pelagic longline vessel(s).

*Article 56***Prior authorisation for transhipment at sea**

1. Transhipments by large-scale pelagic longline vessels in waters under the jurisdiction of a CPC are subject to prior authorisation from that CPC. The original or a copy of that authorisation shall be retained on the vessel and made available to the ICCAT regional observer when requested.
2. Large-scale pelagic longline vessels shall not be allowed to tranship at sea, unless they have obtained prior authorisation from their flag Member State. The original or a copy of the documentation of that authorisation shall be retained on the vessel and made available to the ICCAT regional observer when requested.
3. To receive the prior authorisations referred to in paragraphs 1 and 2, the master or owner of the large-scale pelagic longline vessel shall, at least 24 hours in advance of the intended transhipment, notify its flag Member State authorities and the coastal CPC of the following information:
 - (a) the name of the large-scale pelagic longline vessel and its number in the ICCAT record of large-scale pelagic longline vessels authorised to tranship at sea;
 - (b) the name of the carrier vessel and its number in the ICCAT record of carrier vessels;
 - (c) the product to be transhipped, by species, where known, and, if possible, by stock;
 - (d) the quantities of ICCAT species, if possible, by stock, to be transhipped;
 - (e) the quantities of other species caught in association with ICCAT species by species, if known, to be transhipped;
 - (f) the date and location of transhipment;
 - (g) the geographic location of the catches by species and, where appropriate, by stock, consistent with ICCAT statistical areas.

*Article 57***ICCAT transhipment declaration**

1. The master or owner of the large-scale pelagic longline vessel shall, not later than 15 days after the transhipment, complete and transmit to its flag Member State and to the coastal CPC the ICCAT transhipment declaration.

⁽¹⁾ Procedure number 2015/0289(COD), not yet published in the Official Journal.

2. The master of the receiving carrier vessel shall, within 24 hours of the completion of the transshipment, complete and transmit to the ICCAT Secretariat, to the flag CPC of the large-scale pelagic longline vessel and to its flag Member State the ICCAT transshipment declaration, along with its number in the ICCAT record of carrier vessels.
3. The master of the receiving carrier vessel shall, at least 48 hours before landing, transmit to the competent authorities of the landing State the ICCAT transshipment declaration, along with its number in the ICCAT record of carrier vessels.
4. All ICCAT species and any other species caught in association with those species landed in, or imported into, the area or territory of a CPC, either unprocessed or after having been processed on board, and which are transhipped at sea, shall be accompanied by the ICCAT transshipment declaration until the first sale has taken place.

Article 58

ICCAT regional observer programme for transshipment at sea

1. Each Member State shall ensure that all carrier vessels transshipping at sea have on board an ICCAT regional observer in accordance with the ICCAT regional observer programme for transshipment at sea as laid down in Annex VIII.
2. Without prejudice to Article 73 of Regulation (EC) No 1224/2009, the ICCAT regional observer shall be tasked to verify compliance with this Chapter, and, in particular, whether the transhipped quantities are consistent with the reported catch in the ICCAT transshipment declaration and with the catches recorded in the fishing vessel logbook.
3. Vessels shall be prohibited from commencing or continuing transshipping in the ICCAT Convention area without an ICCAT regional observer on board, except in cases of force majeure duly notified to the ICCAT Secretariat.

Article 59

Reporting obligations

1. The flag Member State of large-scale pelagic longline vessels which have transhipped and the flag Member State of carrier vessels which have received transshipments during the previous year shall transmit by 15 August of each year to the Commission:
 - (a) the quantities of catches of ICCAT species, by species and, if possible, by stock, transhipped during the previous year;
 - (b) the quantities of other species caught in association with ICCAT species by species, if known, transhipped during the previous year;
 - (c) the list of the large-scale pelagic longline vessels which have transhipped during the previous year;
 - (d) a comprehensive report assessing the content and conclusions of the reports of the ICCAT regional observers assigned to carrier vessels which have received transshipment from large-scale pelagic longline vessels.
2. The Commission shall forward the information received pursuant to paragraph 1 to the ICCAT Secretariat by 15 September of each year.

Article 60

Consistency of reported data

The flag Member State of the large-scale pelagic longline vessel engaged in transshipments at sea shall review the information received pursuant to this Regulation so as to determine consistency between the reported catches, transshipments and landings of each vessel, including in cooperation with the landing State as necessary. That verification shall be carried out in such a manner so as to ensure that the vessel suffers the minimum interference and inconvenience and that deterioration in fish quality is avoided.

CHAPTER V

Scientific observer programmes

Article 61

Establishment of domestic scientific observer programmes

1. Member States shall establish domestic scientific observer programmes ensuring the following:
 - (a) a minimum of 5 % observer coverage of fishing effort in each of the pelagic longline, purse seine and baitboat fisheries;
 - (b) for chartered vessels, by way of derogation from point (a), a minimum of 10 % observer coverage of fishing effort in each of the pelagic longline, purse seine and baitboat fisheries;
 - (c) a representative temporal and spatial coverage of the operation of the fleet to ensure the collection of adequate and appropriate data, taking into account characteristics of the fleets and fisheries;
 - (d) data collection on all aspects of the fishing operation, including catch, as specified in Article 63(1).
2. The observer coverage referred to in points (a) and (b) of paragraph 1 shall be calculated as follows:
 - (a) in number of sets or trips for purse seine fisheries;
 - (b) in fishing days, number of sets or trips for pelagic longline fisheries; or
 - (c) in fishing days for baitboat fisheries.
3. By way of derogation from point (a) of paragraph 1, for vessels less than 15 metres in length overall, where an extraordinary safety concern exists that precludes deployment of an on-board observer, a Member State may employ an alternative scientific monitoring approach. That alternative approach shall ensure a coverage comparable to that specified in point (a) of paragraph 1 and an equivalent collection of data. The Member State concerned shall present the details of the alternative approach to the Commission.
4. The Commission shall submit the details of the alternative approach referred to in paragraph 3 to the ICCAT Standing Committee on Research and Statistics for evaluation. Alternative approaches shall be subject to the approval of the ICCAT Commission at the ICCAT annual meeting prior to their implementation.

Article 62

Qualifications of scientific observers

Member States shall ensure that observers have followed the required training, are suitably qualified and are approved before their deployment. The observers shall possess the following qualifications:

- (a) sufficient knowledge and experience to identify species and collect information on different fishing gear configurations;
- (b) satisfactory knowledge of the ICCAT conservation and management measures;
- (c) ability to observe and record accurately data to be collected under the programme;
- (d) ability to collect biological samples;
- (e) not be a crew member of the fishing vessel being observed; and
- (f) not be an employee of a fishing vessel company involved in the fishery being observed.

Article 63

Responsibilities of scientific observers

1. In particular, Member States shall require observers to:
 - (a) record and report information on the fishing activity, which shall include at least the following:
 - (i) data concerning total target catch, by-catch and discards (including sharks, sea turtles, marine mammals and seabirds), size composition, disposition status (i.e. retained, discarded dead, released alive), and biological samples for life history studies (e.g. gonads, otoliths, spines, scales);

- (ii) fishing operation information, including area of catch by latitude and longitude, fishing effort information (e.g. number of sets, number of hooks, etc.), date of each fishing operation, including, as appropriate, the start and stop times of the fishing activity;
 - (b) observe and record the use of by-catch mitigation measures and other relevant information;
 - (c) submit any proposals they consider appropriate to improve the efficiency of conservation measures and scientific monitoring.
2. Member States shall ensure use of robust data collection protocols, including, if necessary, the use of photography or cameras.
 3. Masters of the vessels shall ensure appropriate access to the vessel and its operations to allow the observers to carry out their responsibilities effectively.

Article 64

Submission of collected information

By 30 June of each year Member States shall submit to the Commission the information collected under their domestic scientific observer programmes. The Commission shall forward that information to the ICCAT Secretariat by 31 July of each year.

CHAPTER VI

Control of third country fishing vessels in Member State ports

Article 65

Reporting obligations with regard to designated ports and points of contact

1. Member States wishing to grant access to its ports to third country fishing vessels carrying ICCAT species or fishery products originating from such species that have not been previously landed or transhipped at ports shall:
 - (a) designate their ports to which third country fishing vessels may request entry pursuant to Article 5 of Regulation (EC) No 1005/2008;
 - (b) designate a point of contact for the purposes of receiving prior notice pursuant to Article 6 of Regulation (EC) No 1005/2008;
 - (c) designate a point of contact for the purposes of transmitting port inspection reports pursuant to Article 66 of this Regulation.
2. Member States shall transmit to the Commission any changes to the list of designated ports and points of contact at least 30 days before such changes take effect. The Commission shall notify that information to the ICCAT Secretariat at least 14 days before those changes take effect.

Article 66

Reporting obligations with regard to port inspections

1. The inspecting Member State shall transmit to the Commission a copy of the port inspection report referred to in Article 10(3) of Regulation (EC) No 1005/2008 no later than 10 days following the date of completion of the inspection. The Commission shall forward that information to the ICCAT Secretariat no later than 14 days following the date of completion of the inspection.
2. If the port inspection report cannot be transmitted within the period of 10 days referred to in paragraph 1, the inspecting Member State shall notify the Commission within that period of the reasons for the delay and when the report will be submitted.
3. If the information collected during the inspection provides reasons to believe that a third country vessel has committed an infringement of the ICCAT conservation and management measures, Article 11 of Regulation (EC) No 1005/2008 shall apply.

CHAPTER VII

Enforcement

Article 67

Alleged infringements reported by Member States

1. In addition to the requirements set out in Article 48(4) of Regulation (EC) No 1005/2008, Member States shall submit to the Commission, at least 140 days before the ICCAT annual meeting, any documented information that indicates possible non-compliance of CPCs with ICCAT conservation and management measures. The Commission shall examine that information and, if appropriate, forward it to the ICCAT Secretariat at least 120 days before the ICCAT annual meeting.
2. Member States shall submit to the Commission the list of catching vessels 12 metres or greater in length overall, fish processing vessels, tug and towing vessels, vessels engaged in transshipment, and support vessels alleged to be carrying out IUU fishing in the ICCAT Convention area during the current and previous year, accompanied by the supporting evidence concerning the presumption of IUU fishing. That list shall be submitted at least 140 days before the ICCAT annual meeting. The Commission shall examine that information and, if the information is sufficiently documented, forward it to the ICCAT Secretariat at least 120 days before the ICCAT annual meeting, for the purpose of establishing the ICCAT draft IUU list.

Article 68

ICCAT draft IUU list

Member States shall closely monitor the vessels included in the ICCAT draft IUU list circulated by the ICCAT Executive Secretary, in order to determine the activities and possible changes of name, flag or registered owner of those vessels.

Article 69

Alleged non-compliances reported by the ICCAT Executive Secretary

1. If the Commission receives from the ICCAT Executive Secretary any information indicating a suspected non-compliance by a Member State, the Commission shall without delay transmit that information to the Member State concerned.
2. The Member State concerned shall provide the Commission, at least 45 days before the ICCAT annual meeting, with the findings of any investigation taken in relation to the allegations of non-compliance and any actions taken to address compliance issues. The Commission shall forward that information to the ICCAT Executive Secretary at least 30 days before the ICCAT annual meeting.

Article 70

Alleged infringements reported by a CPC

1. Member States shall designate a point of contact for the purpose of receiving port inspection reports from CPCs.
2. Member States shall transmit to the Commission any changes to the point of contact referred to in paragraph 1 at least 30 days before such changes take effect. The Commission shall forward that information to the ICCAT Secretariat at least 14 days before those changes take effect.
3. If the point of contact designated by a Member State receives a port inspection report from a CPC providing evidence that a fishing vessel flying the flag of that Member State has committed an infringement of ICCAT conservation and management measures, the Member State shall promptly investigate the infringement and, within 160 days of the receipt of such port inspection report, notify the Commission of the status of the investigation and of any enforcement action that may have been taken.
4. If the flag Member State cannot meet the deadline referred to in paragraph 3, it shall notify the Commission the reasons for the delay and when the report on the status of the investigation will be submitted.
5. The Commission shall forward that information to the ICCAT Secretariat within 180 days from the receipt of the port inspection report and shall include in the annual report referred to in Article 71 information regarding the status of the investigations and any enforcement actions undertaken by the flag Member State.

TITLE IV

FINAL PROVISIONS

Article 71

Annual report

1. By 20 August of each year Member States shall submit to the Commission an annual report for the preceding calendar year, comprising information on fisheries, research, statistics, management, inspection and IUU fishing prevention activities and any additional information, as appropriate.
2. The annual report shall include information on the steps taken to mitigate by-catch and reduce discards, and on any relevant research in that field.
3. The Commission shall compile the information received pursuant to paragraphs 1 and 2 and shall forward it to the ICCAT Secretariat without delay.
4. The Commission may adopt implementing acts as regards detailed requirements for the format of the annual report referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 75(2).

Article 72

Confidentiality

Data collected and exchanged in the framework of this Regulation shall be treated in accordance with the applicable rules on confidentiality pursuant to Articles 112 and 113 of Regulation (EC) No 1224/2009.

Article 73

Procedure for amendments

1. Where necessary in order to implement into Union law amendments to the existing ICCAT recommendations which become binding on the Union, and insofar as amendments to Union law do not go beyond the ICCAT recommendations, the Commission is empowered to adopt delegated acts in accordance with Article 74 for the purpose of amending:
 - (a) Annexes II to VIII;
 - (b) the time limits laid down in Article 7(1), Article 8, Articles 9(1) and 10(2), Article 14(1) and (3), Article 18, Article 20(2), (3) and (4), Article 22(2), Article 23(1) and (2), Article 26(1) and (3), Articles 40(1), 42(1), 44(3) and 47(2), Article 48(1) and (2), Article 50(1) and (2), Article 56(3), Article 57(1), (2) and (3), Article 59(1) and (2), Article 64, Article 65(2), Article 66(1) and (2), Article 67(1) and (2), Article 69(2), Article 70(2), (3) and (5), and Article 71(1);
 - (c) the area laid down in point (b) of Article 14(1);
 - (d) the minimum sizes laid down in Article 19(1) and (2), Article 24(2) and Article 29(2) and (3);
 - (e) the tolerances laid down in Article 19(2) and (3), Article 21 and Article 24(3);
 - (f) the technical specifications of hooks and longlines laid down in Article 25 and point (b) of Article 38(5);
 - (g) the scientific observer coverage laid down in Article 29(1), and points (a) and (b) of Article 61(1);
 - (h) the type of information and data laid down in Article 11(1), (2) and (3), Article 12, Articles 20(2), 26(1) and 42(1), Article 50(1) and (2), and Articles 54(4), 55(4), 56(3) and 59(1);
 - (i) the maximum number of instrumental buoys laid down in Article 9(4).
2. Any amendments adopted in accordance with paragraph 1 shall be strictly limited to the implementation of amendments to the ICCAT recommendation concerned into Union law.

Article 74

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 73 shall be conferred on the Commission for a period of five years from 3 December 2017. The Commission shall draw up a report in respect of the delegation of power not 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.
3. The delegation of power referred to in Article 73 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 act 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 Article 73 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.

Article 75

Committee procedure

1. The Commission shall be assisted by the Committee for Fisheries and Aquaculture established by Article 47 of Regulation (EU) No 1380/2013. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 76

Amendments to Regulation (EC) No 1936/2001

In Regulation (EC) No 1936/2001, Articles 4, 5, 6, 6a, 7, 8a, 8b, 8c, 9, 9a and 10 to 19 are deleted.

Article 77

Amendments to Regulation (EC) No 1984/2003

Regulation (EC) No 1984/2003 is amended as follows:

- (a) in Article 3, the following points are added:
 - '(g) large-scale fishing vessel: fishing vessel 20 metres in length overall or greater;
 - (h) large-scale pelagic longline vessel: pelagic longline vessel 24 metres in length overall or greater.;
- (b) in Article 4(2), the following point is added:
 - '(c) if the fishing has been carried out by a large-scale fishing vessel, be accepted only when that vessel is on the ICCAT record of vessels.;
- (c) in Article 5(2), the following point is added:
 - '(c) if the fishing has been carried out by a large-scale fishing vessel, be validated only when that vessel is on the ICCAT record of vessels.;
- (d) in Chapter 2, the following Section is added:

'Section 4

Requirements for Member States in respect of transhipped products in the ICCAT Convention area

Article 7a

Statistical documents and reporting

1. When validating statistical documents, the flag Member State of large-scale pelagic longline vessels shall ensure that transhipments are consistent with the reported catch amount by each such vessel.

2. The flag Member State of large-scale pelagic longline vessels shall validate statistical documents for the transhipped fish, after confirming that the transhipment was conducted in accordance with Articles 51 to 58 of Regulation (EU) 2017/2107 of the European Parliament and of the Council (*). That confirmation shall be based on the information obtained through the ICCAT regional observer programme for transhipment at sea.

3. Member States shall require that the species covered by the statistical document programs caught by large-scale pelagic longline vessels in the ICCAT Convention area, when imported into their area or territory, are accompanied by statistical documents validated for the vessels on the ICCAT list of large-scale pelagic longline vessels authorised to tranship at sea and a copy of the ICCAT transhipment declaration.

(*) Regulation (EU) 2017/2107 of the European Parliament and of the Council of 15 November 2017 laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT), and amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007 (OJ L 315, 30.11.2017, p. 1).

Article 78

Amendments to Regulation (EC) No 520/2007

In Regulation (EC) No 520/2007, Article 4(1), Title II and Annexes II, III and IV are deleted.

Article 79

Entry into force

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 15 November 2017.

For the European Parliament

The President

A. TAJANI

For the Council

The President

M. MAASIKAS

ANNEX I

ICCAT SPECIES

Family	Latin name	English name
<i>Scombridae</i>	<i>Acanthocybium solandri</i>	Wahoo
	<i>Allothunnus fallai</i>	Slender tuna
	<i>Auxis rochei</i>	Bullet tuna
	<i>Auxis thazard</i>	Frigate tuna
	<i>Euthynnus alletteratus</i>	Little tunny/Atlantic black skipjack
	<i>Gasterochisma melampus</i>	Butterfly kingfish
	<i>Katsuwonus pelamis</i>	Skipjack
	<i>Orcynopsis unicolor</i>	Plain bonito
	<i>Sarda sarda</i>	Atlantic bonito
	<i>Scomberomorus brasiliensis</i>	Serra Spanish mackerel
	<i>Scomberomorus cavalla</i>	King mackerel
	<i>Scomberomorus maculatus</i>	Spotted Atlantic Spanish mackerel
	<i>Scomberomorus regalis</i>	Cero
	<i>Scomberomorus tritor</i>	West African Spanish mackerel
	<i>Thunnus alalunga</i>	Albacore
	<i>Thunnus albacares</i>	Yellowfin tuna
	<i>Thunnus atlanticus</i>	Blackfin tuna
	<i>Thunnus maccoyii</i>	Southern bluefin tuna
<i>Thunnus obesus</i>	Bigeye tuna	
<i>Thunnus thynnus</i>	Bluefin tuna	
<i>Istiophoridae</i>	<i>Istiophorus albicans</i>	Atlantic sailfish
	<i>Makaira indica</i>	Black marlin
	<i>Makaira nigricans</i>	Atlantic blue marlin
	<i>Tetrapturus albidus</i>	Atlantic white marlin
	<i>Tetrapturus belone</i>	Mediterranean Spearfish
	<i>Tetrapturus georgii</i>	Roundscale Spearfish
	<i>Tetrapturus pfluegeri</i>	Longbill Spearfish
<i>Xiphiidae</i>	<i>Xiphias gladius</i>	Swordfish
<i>Alopiidae</i>	<i>Alopias superciliosus</i>	Bigeye thresher shark
<i>Carcharhinidae</i>	<i>Carcharhinus falciformis</i>	Silky shark
	<i>Carcharhinus longimanus</i>	Oceanic whitetip shark
	<i>Prionace glauca</i>	Blue shark

Family	Latin name	English name
<i>Lamnidae</i>	<i>Isurus oxyrinchus</i>	Shortfin mako shark
	<i>Lamna nasus</i>	Porbeagle shark
<i>Sphyrnidae</i>	<i>Sphyrna</i> spp.	Hammerhead sharks
<i>Coryphaenidae</i>	<i>Coryphaena hippurus</i>	Dolphinfish

ANNEX II

GUIDELINES FOR PREPARATION OF FISH AGGREGATING DEVICE (FAD) MANAGEMENT PLANS

The FAD management plan for CPC purse seine and baitboat fleets must include the following:

- (1) Description
 - (a) FAD types: AFAD = anchored; DFAD = drifting
 - (b) Type of beacon/buoy
 - (c) Maximum number of FAD to be deployed per purse seine and per FAD type
 - (d) Minimum distance between AFADs
 - (e) Incidental by-catch reduction and utilisation policy
 - (f) Consideration of interaction with other gear types
 - (g) Statement or policy on 'FAD ownership';
 - (2) Institutional arrangements
 - (a) Institutional responsibilities for the FAD management plan
 - (b) Application processes for FAD deployment approval
 - (c) Obligations of vessel owners and masters in respect of FAD deployment and use
 - (d) FAD replacement policy
 - (e) Additional reporting obligations beyond this Regulation
 - (f) Conflict resolution policy in respect of FADs
 - (g) Details of any closed areas or periods, e.g. territorial waters, shipping lanes, proximity to artisanal fisheries, etc.;
 - (3) FAD construction specifications and requirements
 - (a) FAD design characteristics (a description)
 - (b) Lighting requirements
 - (c) Radar reflectors
 - (d) Visible distance
 - (e) FAD markings and identifier
 - (f) Radio buoy markings and identifier (requirement for serial numbers)
 - (g) Echo sounder buoy markings and identifier (requirement for serial numbers)
 - (h) Satellite transceivers
 - (i) Research undertaken on biodegradable FADs
 - (j) Prevention of loss or abandonment of FADs
 - (k) Management of FADs recovery;
 - (4) Applicable period for the FAD management plan;
 - (5) Means for monitoring and reviewing the implementation of the FAD management plan.
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LIST OF DEPLOYED FADS ON A QUARTERLY BASIS

FAD Identifier		FAD & electronic equipment types		FAD Design characteristics				Observation
FAD Marking	Associated beacon ID	FAD Type	Type of the associated beacon and /or electronic devices	FAD floating part		FAD underwater hanging structure		
				Dimensions	Materials	Dimensions	Materials	
(¹)	(¹)	(²)	(³)	(⁴)	(⁵)	(⁴)	(⁶)	(⁷)
...
...

(¹) If FAD marking and associated beacon ID are absent or unreadable, mention it and provide all available information which may help to identify the owner of the FAD.

(²) Anchored FAD, drifting natural FAD or drifting artificial FAD.

(³) E.g. GPS, sounder, etc. If no electronic device is associated to the FAD, note this absence of equipment.

(⁴) E.g. width, length, high, depth, mesh sizes, etc.

(⁵) Mention the material of the structure and of the cover and if biodegradable.

(⁶) E.g. nets, ropes, palm leaves, etc. and mention the entangling and/or biodegradable features of the material.

(⁷) Lighting specifications, radar reflectors and visible distances shall be reported in this section.

ANNEX IV

OBSERVER PROGRAMME REQUIREMENTS FOR VESSELS FISHING FOR TROPICAL TUNAS IN THE GEOGRAPHICAL AREAS OF THE TIME AND AREA CLOSURE

1. The observers shall have the following qualifications to accomplish their tasks:
 - sufficient experience to identify species and fishing gear,
 - satisfactory knowledge of the ICCAT conservation and management measures assessed by a certificate provided by the Member State and based on ICCAT training guidelines,
 - the ability to observe and record accurately,
 - a satisfactory knowledge of the language of the flag state of the vessel observed.
2. The observers shall not be crew members of the fishing vessel being observed and shall:
 - (a) be nationals of one of the CPCs;
 - (b) be capable of performing the duties set out in point 3;
 - (c) not have current financial or beneficial interests in the tropical tuna fisheries.

Observer tasks

3. The observer tasks shall be, in particular:
 - (a) to monitor the fishing vessels' compliance with the relevant conservation and management measures adopted by the ICCAT Commission.

In particular, the observers shall:

 - (i) record and report upon the fishing activities carried out;
 - (ii) observe and estimate catches and verify entries made in the logbook;
 - (iii) sight and record vessels which may be fishing in contravention of ICCAT conservation and management measures;
 - (iv) verify the position of the vessel when engaged in catching activity;
 - (v) carry out scientific work such as collecting Task II data when required by ICCAT, based on the directives from the ICCAT Standing Committee on Research and Statistics;
 - (b) to report without delay, with due regard to the safety of the observer, any fishing activity associated with FADs made by the vessel in the area and during the period referred to in Article 11;
 - (c) to establish general reports compiling the information collected in accordance with this point 3 and provide the master the opportunity to include therein any relevant information.
4. The observers shall treat as confidential all information with respect to the fishing and transshipment operations of the fishing vessels and accept this requirement in writing as a condition of appointment as an observer.
5. The observers shall comply with requirements established in the laws and regulations of the flag Member State which exercises jurisdiction over the vessel to which the observer is assigned.
6. The observers shall respect the hierarchy and general rules of behaviour which apply to all vessel personnel, provided such rules do not interfere with the duties of the observer under this programme, and with the obligations set out in point 7.

Obligations of the flag Member State

7. The responsibilities regarding observers of the flag Member States of the fishing vessels and their masters shall include, in particular, the following:
 - (a) the observers shall be allowed access to the vessel personnel and to the gear and equipment;

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- (b) upon request, observers shall also be allowed access to the following equipment, if present on the vessels to which they are assigned, in order to facilitate the carrying out of their duties set out in point 3:
 - (i) satellite navigation equipment;
 - (ii) radar display viewing screens when in use;
 - (iii) electronic means of communication;
 - (c) the observers shall be provided with accommodation, including lodging, food and adequate sanitary facilities, equal to those of officers;
 - (d) the observers shall be provided with adequate space on the bridge or pilot house for clerical work, as well as space on deck adequate for carrying out observer duties; and
 - (e) the flag Member State shall ensure that masters, crew and vessel owners do not obstruct, intimidate, interfere with, influence, bribe or attempt to bribe the observers in the performance of their duties.
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ANNEX V

MINIMUM TECHNICAL STANDARDS FOR MITIGATION MEASURES

Mitigation measure	Description	Specification
Night setting with minimum deck lighting	No setting between nautical dawn and nautical dusk. Deck lighting to be kept to a minimum	Nautical dusk and nautical dawn are defined as set out in the Nautical Almanac tables for relevant latitude, local time and date. Minimum deck lighting should not breach minimum standards for safety and navigation.
Bird-scaring lines (tori lines)	Bird-scaring lines shall be deployed during longline setting to deter birds from approaching the branch line	<p>For vessels greater than or equal to 35 m:</p> <ul style="list-style-type: none"> — deploy at least 1 bird-scaring line. Where practical, vessels are encouraged to use a second tori pole and bird scaring line at times of high bird abundance or activity; both tori lines should be deployed simultaneously, one on each side of the line being set; — aerial extent of bird-scaring lines must be greater than or equal to 100 m; — long streamers of sufficient length to reach the sea surface in calm conditions must be used; — long streamers must be at intervals of no more than 5 m. <p>For vessels less than 35 m:</p> <ul style="list-style-type: none"> — deploy at least 1 bird-scaring line; — aerial extent must be greater than or equal to 75 m; — long and/or short (but greater than 1 m in length) streamers must be used and placed at intervals as follows: <ul style="list-style-type: none"> — Short: intervals of no more than 2 m. — Long: intervals of no more than 5 m for the first 55 m of bird scaring line. <p>Additional design and deployment guidelines for bird-scaring lines are provided in Supplemental Guidelines for Design and Deployment of tori lines below.</p>
Line weighting	Line weights to be deployed on the snood prior to setting	<p>Greater than a total of 45 g attached within 1 m of the hook; or</p> <p>Greater than a total of 60 g attached within 3,5 m of the hook; or</p> <p>Greater than a total of 98 g weight attached within 4 m of the hook.</p>

SUPPLEMENTAL GUIDELINES FOR DESIGN AND DEPLOYMENT OF TORI LINES

Preamble

Minimum technical standards for deployment of tori lines are found in the Table above. These supplemental guidelines are designed to assist in preparation and implementation of tori line regulations for longline vessels. While these guidelines are relatively explicit, improvement in tori line effectiveness through experimentation is encouraged, within the requirements of the Table above. The guidelines take into account environmental and operational variables such as weather conditions, setting speed and ship size, all of which influence tori line performance and design in protecting baits from birds. Tori line design and use may change to take account of these variables provided that line performance is not compromised. Ongoing improvement in tori line design is envisaged and consequently review of these guidelines should be undertaken in the future.

Tori line design

1. An appropriate towed device on the section of the tori line in the water can improve the aerial extension.
2. The above water section of the line should be sufficiently light that its movement is unpredictable to avoid habituation by birds and sufficiently heavy to avoid deflection of the line by wind.
3. The line is best attached to the vessel with a robust barrel swivel to reduce tangling of the line.
4. The streamers should be made of material that is conspicuous and produces an unpredictable lively action (e.g. strong fine line sheathed in red polyurethane tubing) suspended from a robust three-way swivel (that again reduces tangles) attached to the tori line.
5. Each streamer should consist of two or more strands.
6. Each streamer pair should be detachable by means of a clip so that line stowage is more efficient.

Deployment of tori lines

1. The line should be suspended from a pole affixed to the vessel. The tori pole should be set as high as possible so that the line protects bait a good distance astern of the vessel and will not tangle with fishing gear. Greater pole height provides greater bait protection. For example, a height of around 7 m above the water line can give about 100 m of bait protection.
 2. If vessels use only one tori line it should be set to windward of sinking baits. If baited hooks are set outboard of the wake, the tori line attachment point to the vessel should be positioned several metres outboard of the side of the vessel that baits are deployed. If vessels use two tori lines, baited hooks should be deployed within the area bounded by the two tori lines.
 3. Deployment of multiple tori lines is encouraged to provide even greater protection of baits from birds.
 4. Because of the potential for line breakage and tangling, spare tori lines should be carried on board to replace damaged lines and to ensure fishing operations can continue uninterrupted. Breakaways can be incorporated into the tori line to minimise safety and operational problems should a longline float foul or tangle with the in-water extent of a tori line.
 5. When fishermen use a bait casting machine (BCM), they must ensure coordination of tori line and machine by ensuring that a BCM throws directly under the tori line protection. When using a BCM (or multiple BCMs) that allows throwing to both port and starboard, two tori lines should be used.
 6. When casting branchline by hand, fishermen should ensure that the baited hooks and coiled branchline sections are cast under the tori line protection, avoiding the propeller turbulence which may slow the sink rate.
 7. Fishermen are encouraged to install manual, electric or hydraulic winches to improve ease of deployment and retrieval of tori lines.
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ANNEX VI

DETAILED REQUIREMENTS FOR THE RELEASE OF SEA TURTLES

Regarding safe-handling practices:

- (i) When a sea turtle is to be removed from the water, an appropriate basket lift or dip-net shall be used to bring aboard sea turtles that are hooked or entangled in gear. No sea turtle shall be hauled from the water by a fishing line attached to, or entangled upon the body of a sea turtle. If the sea turtle cannot be safely removed from the water, the crew should cut the line as close as possible to the hook, without inflicting additional unnecessary harm on the sea turtle.
- (ii) In cases where sea turtles are taken on board, vessel operators or crew shall assess the condition of sea turtles that are caught or entangled prior to release. Those sea turtles with difficulties to move or are unresponsive shall be kept on board to the extent practicable and assisted in a manner consistent with maximising their survival prior to release. Those practices are described further in the FAO's Guidelines to reduce sea turtle mortality in fishing operations.
- (iii) To the extent practicable, sea turtles handled in fishing operations or during national observer programmes (e.g. tagging activities) shall be handled in a manner consistent with the FAO's Guidelines to reduce sea turtle mortality in fishing operations.

Regarding the use of line cutters:

- (i) Longline vessels shall carry on board line-cutters and use them when de-hooking is not possible without harming the sea turtles while releasing them.
- (ii) Other types of vessels that use gear that may entangle sea turtles shall carry on board line-cutters and use those tools to safely remove gear, and release sea turtles.

Regarding the use of de-hooking devices:

- (i) Longline vessels shall carry on board de-hooking devices to effectively remove hooks from sea turtles.
- (ii) When a hook is swallowed, no attempt shall be made to remove the hook. Instead, the line must be cut as close to the hook as possible without inflicting additional unnecessary harm on the sea turtle.

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ANNEX VII

IN-PORT TRANSHIPMENT

1. Transshipment in port by Union vessels or in Union ports of tuna and tuna-like species and any other species caught in association with those species in the ICCAT Convention area shall follow the following procedures:

Notification obligations

2. Fishing vessel
 - 2.1 At least 48 hours in advance of transshipment operations, the captain of the fishing vessel must notify to the port State authorities the name of the carrier vessel and date/time of transshipment.
 - 2.2 The captain of a fishing vessel shall, at the time of the transshipment, inform its flag Member State of the following:
 - the quantities of tuna and tuna-like species, if possible, by stock, to be transhipped,
 - the quantities of other species caught in association with tuna and tuna-like species by species, where known, to be transhipped,
 - the date and place of the transshipment,
 - the name, registration number and flag of the receiving carrier vessel, and
 - the geographical location of the catches by species and, where appropriate, by stock, consistent with ICCAT statistical areas.
 - 2.3 The captain of the fishing vessel concerned shall complete and transmit to its flag Member State the ICCAT transshipment declaration, along with its number in the ICCAT record of fishing vessels, where applicable, not later than 15 days after the transshipment.

3. Receiving vessel

- 3.1 Not later than 24 hours before the beginning and at the end of the transshipment, the master of the receiving carrier vessel shall inform the port State authorities of the quantities of catches of tuna and tuna-like species transhipped to his vessel, and complete and transmit the ICCAT transshipment declaration to the competent authorities within 24 hours.
- 3.2 The master of the receiving carrier vessel shall, at least 48 hours before landing, complete and transmit an ICCAT transshipment declaration to the competent authorities of the landing State.

Port and landing State cooperation

4. The port State and the landing State referred to in the above points shall review the information received pursuant to the provisions of this Annex, including in cooperation with the flag CPC of the fishing vessel as necessary, to determine consistency between the reported catches, transshipments and landings of each vessel. That verification shall be carried out so that the vessel suffers the minimum interference and inconvenience and that degradation of the fish is avoided.

Reporting

5. Each flag Member State of the fishing vessel shall include in its annual report to ICCAT the details on the transshipments by its vessels.

ANNEX VIII

ICCAT REGIONAL OBSERVER PROGRAMME FOR TRANSHIPMENT AT SEA OPERATIONS

1. Member States shall require carrier vessels included in the ICCAT record of vessels authorised to receive transshipments in the ICCAT Convention area and which tranship at sea, to carry an ICCAT regional observer during each transshipment operation in the ICCAT Convention area.
2. Observers shall be appointed by ICCAT and shall be placed on board the carrier vessels authorised to receive transshipments in the ICCAT Convention area from large-scale pelagic longline vessels (LSPLVs) flying the flag of CPCs that implement the ICCAT regional observer programme.

Designation of the observers

3. The designated observers shall have the following qualifications to accomplish their tasks:
 - demonstrated ability to identify ICCAT species and fishing gear with a strong preference given to those with experience as observers on pelagic longline vessels,
 - satisfactory knowledge of the ICCAT conservation and management measures,
 - the ability to observe and record accurately,
 - a satisfactory knowledge of the language of the flag of the vessel observed.

Obligations of the observer

4. Observers shall:
 - (a) have completed the technical training required by the guidelines established by ICCAT;
 - (b) not be nationals or citizens of the flag State of the receiving carrier vessel;
 - (c) be capable of performing the duties set out in point 5;
 - (d) be included in the list of observers maintained by ICCAT;
 - (e) not be a crew member of the LSPLV or the carrier vessel or an employee of the LSPLV or carrier vessel company.
5. The observer shall monitor the LSPLV's and carrier vessel's adherence to the relevant conservation and management measures adopted by ICCAT. The observers' tasks shall be, in particular, to:
 - 5.1 Visit the LSPLV intending to tranship to a carrier vessel, taking into account the concerns reflected in point 9, and before the transshipment takes place, to:
 - (a) check the validity of the fishing vessel's authorisation or licence to catch tuna and tuna-like species and any other species caught in association with those species in the ICCAT Convention area;
 - (b) inspect the fishing vessel's prior authorisations to tranship at sea from the flag CPC and, if appropriate, the coastal State;
 - (c) check and record the total quantity of catch on board by species and, if possible, by stock, and the quantities to be transhipped to the carrier vessel;
 - (d) check that the vessel monitoring system (VMS) is functioning and examine the logbook and verify entries, if possible;
 - (e) verify whether any of the catch on board resulted from transfers from other vessels, and check the documentation on such transfers;
 - (f) in the case of indication that there are any violations involving the fishing vessel, immediately report the violation(s) to the master of the carrier vessel (taking due regard of any safety considerations) and to the observer programme implementing company, who shall promptly forward it to the flag CPC authorities of the fishing vessel; and
 - (g) record the results of these duties on the fishing vessel in the observer's report.

- 5.2 Observe the activities of the carrier vessel and:
- (a) record and report upon the transshipment activities carried out;
 - (b) verify the position of the vessel when engaged in transshipping;
 - (c) observe and estimate quantities of tuna and tuna-like species transhipped by species, if known, and, if possible, by stock;
 - (d) observe and estimate the quantities of other species caught in association with tuna and tuna-like species by species, if known;
 - (e) verify and record the name of the LSPLV concerned and its ICCAT record number;
 - (f) verify the data contained in the transshipment declaration, including through comparison with the LSPLV logbook, where possible;
 - (g) certify the data contained in the transshipment declaration;
 - (h) countersign the transshipment declaration; and
 - (i) observe and estimate quantities of product by species when offloaded in the port where the observer is disembarked to verify consistency with quantities received during transshipment at sea.
- 5.3 In addition, the observer shall:
- (a) issue a daily report of the carrier vessel's transshipping activities;
 - (b) establish general reports compiling the information collected in accordance with the observer's duties and provide the captain the opportunity to include therein any relevant information;
 - (c) submit to the ICCAT Secretariat the general reports referred to in point (b) within 20 days from the end of the period of observation;
 - (d) exercise any other functions as defined by ICCAT.
6. Observers shall treat as confidential all information with respect to the fishing operations of the LSPLV and of the LSPLV owners and accept this requirement in writing as a condition of appointment as an observer.
7. Observers shall comply with requirements established in the laws and regulations of the flag Member State and, where relevant, the coastal State, which exercises jurisdiction over the vessel to which the observer is assigned.
8. Observers shall respect the hierarchy and general rules of behaviour which apply to all vessel personnel, provided such rules do not interfere with the duties of the observer under this programme, and with the obligations of vessel personnel set out in point 9.

Responsibilities of the flag States of carrier vessels

9. The conditions associated with implementation of the regional observer programme *vis à vis* the flag States of the carrier vessels and their captains include, in particular, the following:
- (a) Observers shall be allowed access to the vessel personnel, pertinent documentation, and to the gear and equipment.
 - (b) Upon request, observers shall also be allowed access to the following equipment, if present on the vessels to which they are assigned, in order to facilitate the carrying out of their duties set out in point 5:
 - (i) satellite navigation equipment;
 - (ii) radar display viewing screens when in use;
 - (iii) electronic means of communication; and
 - (iv) scale used for weighing transhipped product.
 - (c) Observers shall be provided with accommodations, including lodging, food and adequate sanitary facilities, equal to those of officers.
 - (d) Observers shall be provided with adequate space on the bridge or pilot house for clerical work, as well as space on deck adequate for carrying out observer duties.

- (e) Observers shall be allowed to determine the most advantageous location and method for viewing transshipment operations and estimating species/stocks and quantities transhipped. In this regard, the master of the carrier vessel, giving due regard to safety and practical concerns, shall accommodate the needs of the observers, including, upon request, temporarily placing product on the carrier vessel deck for inspection by the observers and providing adequate time for the observers to carry out their duties. Observations shall be conducted in a manner that minimises interference and avoids compromising the quality of the products transhipped.
- (f) In light of the provisions of point 10, the master of the carrier vessel shall ensure that all necessary assistance is provided to the observer to ensure safe transport between the carrier and fishing vessels should weather and other conditions permit such an exchange. and
- (g) The flag States shall ensure that captains, crew and vessel owners do not obstruct, intimidate, interfere with, influence, bribe or attempt to bribe the observers in the performance of their duties.

Responsibilities of LSPLVs during transshipments

- 10. Observers shall be allowed to visit the fishing vessel, if weather and other conditions permit, and shall be granted access to personnel, all pertinent documentation, and areas of the vessel necessary to carry out their duties set out in point 5. The master of the fishing vessel shall ensure that all necessary assistance is provided to the observer to ensure safe transport between the carrier and fishing vessels. Should conditions present an unacceptable risk to the welfare of the observer such that a visit to the LSPLV is not feasible prior to the start of transshipment operations, such operations may still be carried out.

Observer fees

- 11. The costs of implementing this programme shall be financed by the flag CPCs of LSPLVs wishing to engage in transshipment operations. The fee shall be calculated on the basis of the total costs of the programme. That fee shall be paid into a special account of the ICCAT Secretariat and the ICCAT Secretariat shall manage the account for implementing the programme.
 - 12. No LSPLV may participate in the transshipment at sea programme unless the fees, as required under point 11, are paid.
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DIRECTIVES

DIRECTIVE (EU) 2017/2108 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 15 November 2017

amending Directive 2009/45/EC on safety rules and standards for passenger ships

(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 Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

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 ⁽³⁾ 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.
- (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).

⁽¹⁾ OJ C 34, 2.2.2017, p. 167.

⁽²⁾ Position of the European Parliament of 4 October 2017 (not yet published in the Official Journal) and decision of the Council of 23 October 2017.

⁽³⁾ 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).

- (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 socioeconomic 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 Council ⁽¹⁾, 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 International Convention for the Safety of Life at Sea (1974 SOLAS Convention).
- (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 metres 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 metres 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.

⁽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).

- (12) Since, in accordance with Directive 2009/16/EC of the European Parliament and of the Council ⁽¹⁾, 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 Council ⁽²⁾, 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.
- (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 Council ⁽³⁾.
- (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 21 December 2026 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.

⁽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).

⁽³⁾ 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).

- (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 Council ⁽¹⁾.
- (23) Directive 2009/45/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

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) in point (q), the 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).’;

⁽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).

(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;

(zf) “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;

(zg) “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;

(zh) “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 metres 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 21 December 2019 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 sea area outside of areas B, C and D.
“Area B”	means a 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.
“Area C”	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. 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.
“Area D”	means a 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. 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.

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”	means a passenger ship engaged on domestic voyages in Areas A, B, C and D.
“Class B”	means a passenger ship engaged on domestic voyages in Areas B, C and D.
“Class C”	means a passenger ship engaged on domestic voyages in Areas C and D.
“Class D”	means a passenger ship engaged on domestic voyages in Area D.

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 20 December 2017 shall comply with requirements of this Directive by 22 December 2025.
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 20 December 2017 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 20 December 2017, for a period of 10 years after that date; and
 - (b) Class B, C and D passenger ships built in aluminium alloy before 20 December 2017, 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 21 December 2019 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 20 December 2017. 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.’;

(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 22 December 2026';

(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 21 December 2019, 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 21 December 2019.

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 at Strasbourg, 15 November 2017.

For the European Parliament
The President
A. TAJANI

For the Council
The President
M. MAASIKAS

DIRECTIVE (EU) 2017/2109 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 15 November 2017

amending Council Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community and Directive 2010/65/EU of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States

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 Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Accurate and timely information on the number or identity of persons on board a ship is essential for the preparation and effectiveness of search and rescue operations. In the event of an accident at sea, full and complete cooperation between the competent national authorities of the state or states involved, the ship operator and their agents can contribute significantly to the effectiveness of the operations. Certain aspects of that cooperation are regulated by Council Directive 98/41/EC ⁽³⁾.
- (2) The results of the Regulatory Fitness and Performance Programme (REFIT) fitness check and the experience gained in the course of implementing Directive 98/41/EC have revealed that information on persons on board is not always readily available to the competent authorities when they need it. In order to address this situation, the current requirements of Directive 98/41/EC should be brought in line with the requirements to report data electronically, leading to greater efficiency. Digitalisation will also make it possible to facilitate access to information concerning a significant number of passengers in the event of an emergency or in the aftermath of an accident at sea.
- (3) Over the past 17 years, significant technological progress has been made as regards the means of communication and the storage of data on ship movements. A number of mandatory ship reporting systems have been set up along Europe's coastlines, in accordance with the relevant rules adopted by the International Maritime Organization (IMO). Both Union law and national law ensure that ships comply with the reporting requirements in force under those systems. It is now necessary to make progress as regards technological innovation, building on the results achieved thus far, including at international level, and ensuring that technological neutrality is always maintained.
- (4) The collection, transmission and sharing of ship-related data have been enabled, simplified and harmonised by the National Single Window referred to in Directive 2010/65/EU of the European Parliament and of the Council ⁽⁴⁾ and the Union Maritime Information and Exchange System (SafeSeaNet) referred to in Directive 2002/59/EC of the European Parliament and of the Council ⁽⁵⁾. The information on the persons on board required by Directive 98/41/EC should therefore be reported in the National Single Window which allows the

⁽¹⁾ OJ C 34, 2.2.2017, p. 172.

⁽²⁾ Position of the European Parliament of 4 October 2017 (not yet published in the Official Journal) and decision of the Council of 23 October 2017.

⁽³⁾ Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community (OJ L 188, 2.7.1998, p. 35).

⁽⁴⁾ Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC (OJ L 283, 29.10.2010, p. 1).

⁽⁵⁾ 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).

competent authority to readily access the data in the event of an emergency or in the aftermath of an accident at sea. The number of persons on board should be reported in the National Single Window using appropriate technical means, which should be left to the discretion of Member States. Alternatively, it should be reported to the designated authority by means of the Automatic Identification System.

- (5) To facilitate the provision and exchange of information reported under this Directive and in order to reduce the administrative burden, Member States should use the harmonised reporting formalities established by Directive 2010/65/EU. In the event of an accident affecting more than one Member State, the Member States should make information available to other Member States via the SafeSeaNet system.
- (6) To allow Member States a sufficient period to add new functionalities to the national single windows, it is appropriate to provide for a transitional period during which Member States have the possibility to maintain the current system for registering persons on board passenger ships.
- (7) Progress made in developing national single windows should serve as a basis for moving towards a European single window environment in the future.
- (8) Member States should encourage operators, and in particular smaller operators, to use the National Single Window. However, in order to ensure compliance with the principle of proportionality, Member States should have the possibility to exempt, under specific conditions, smaller operators who do not yet use the National Single Window and who mainly operate short domestic voyages of less than 60 minutes from the obligation to report in the National Single Window the number of persons on board.
- (9) In order to take account of the specific geographical location of the islands of Heligoland and Bornholm and the nature of their transport connections to the mainland, Germany, Denmark and Sweden should be given additional time to collect the list of persons on board and, during a transitional period, to use the current system to communicate this information.
- (10) Member States should continue to have the possibility to lower the 20 mile threshold for recording and reporting the list of persons on board. This right includes voyages where passenger ships carrying a high number of passengers make successive calls between ports at a distance of less than 20 miles during the course of a single longer voyage. In such cases, Member States should be allowed to lower the 20 mile threshold so as to make it possible for the information required by this Directive to be recorded in respect of passengers on board who embarked in the first or intermediate ports.
- (11) To provide relatives with timely and reliable information in the case of an accident, to reduce unnecessary delays in the consular assistance and other services, and to facilitate identification procedures, the data communicated should include information on the nationality of persons on board. The list of required data entries for voyages of over 20 miles should be simplified, clarified and, as far as possible, aligned with reporting requirements for the National Single Window.
- (12) Given the improvements in the electronic means of data recording, and taking into account the fact that personal data is collected before the ship's departure, the 30 minutes delay currently provided for by Directive 98/41/EC should be reduced to 15 minutes.
- (13) It is important that clear instructions to be followed in the event of an emergency be provided for every person on board, in accordance with international requirements.
- (14) To increase legal clarity and to enhance consistency with related Union legislation, and in particular Directive 2009/45/EC of the European Parliament and of the Council ⁽¹⁾, a number of outdated, ambiguous and confusing references should be updated or deleted. The definition of 'passenger ship' should be aligned to other Union legislation, in a way that does not exceed the scope of this Directive. The definition of 'protected sea area' should be replaced by a concept which is aligned with Directive 2009/45/EC for the purposes of the exemptions under this Directive, ensuring the proximity of search and rescue facilities. The definition of 'passenger registrar' should be amended to reflect the new duties that no longer include the keeping of information. The definition of 'designated authority' should cover competent authorities having direct or indirect access to the information required by this Directive. The corresponding requirements for company passenger registration systems should be deleted.

⁽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).

- (15) This Directive should not apply to pleasure yachts or pleasure craft. In particular, it should not apply to pleasure yachts or pleasure craft when they are bareboat chartered and not subsequently engaged in trade for the purposes of carrying passengers.
- (16) Member States should remain responsible for ensuring compliance with the data registration requirements under Directive 98/41/EC, namely as regards the accuracy and timely registration of the data. To ensure consistency of information, it should be possible to carry out random checks.
- (17) In so far as measures provided for in Directives 98/41/EC and 2010/65/EU entail the processing of personal data, that processing should be carried out in accordance with Union law on the protection of personal data, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽¹⁾, and Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽²⁾. In particular and without prejudice to other legal obligations in compliance with data protection law, personal data collected in accordance with Directive 98/41/EC should not be processed or used for any other purpose and should not be retained longer than necessary for the purposes of Directive 98/41/EC. Personal data should therefore be erased automatically and without undue delay once a ship's voyage has been safely completed or, as applicable, when an investigation or a judicial proceeding taking place during the aftermath of an accident or emergency has been concluded.
- (18) Taking into account the state of the art and the cost of implementation, each company should implement appropriate technical and organisational measures in order to protect personal data processed pursuant to this Directive against accidental or unlawful destruction or accidental loss, alteration, and unauthorised disclosure or access, in line with Union and national legislation on data protection.
- (19) In view of the principle of proportionality and given that it is in the passenger's best interest to provide genuine information, the current means of personal data collection on the basis of self-declaration by passengers is sufficient for the purposes of Directive 98/41/EC. At the same time, electronic means of data registration and verification should ensure that unique information is registered for every person on board.
- (20) To increase transparency and to facilitate the notification by Member States of exemptions and requests for derogation, a database should be established and maintained for that purpose by the Commission. It should include the notified measures in their draft and adopted form. The adopted measures should be made publicly accessible.
- (21) Data relating to the notification of exemptions and requests for derogation by the Member States should be harmonised and coordinated as necessary in order to ensure that the use of such data is as effective as possible.
- (22) 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 98/41/EC should be updated correspondingly. Implementing acts should be adopted in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽³⁾.
- (23) In order to take account of developments at international level 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. 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 Inter-institutional 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.

⁽¹⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁽²⁾ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁽³⁾ 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).

- (24) In view of the full monitoring cycle of European Maritime Safety Agency visits, the Commission should evaluate the implementation of Directive 98/41/EC by 22 December 2026 and report to the European Parliament and the Council thereon. Member States should cooperate with the Commission to gather all information necessary for that evaluation.
- (25) To reflect the changes brought to Directive 98/41/EC, information on persons on board should be included in the list of reporting formalities referred to in Part A of the Annex to Directive 2010/65/EU.
- (26) In order not to impose a disproportionate administrative burden on landlocked Member States which have no seaports and which have no passenger 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 this condition is fulfilled, they are not obliged to transpose this Directive.
- (27) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered formal comments on 9 December 2016.
- (28) Directives 98/41/EC and 2010/65/EU should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 98/41/EC

Directive 98/41/EC is amended as follows:

(1) Article 2 is amended as follows:

(a) the second indent is replaced by the following:

‘— “passenger ship” shall mean a ship or a high-speed craft which carries more than 12 passengers;’

(b) the sixth indent is replaced by the following:

‘— “passenger registrar” shall mean the responsible person designated by a company to fulfil the ISM Code obligations, where applicable, or a person designated by a company as responsible for the transmission of information on persons who have embarked on a company passenger ship;’

(c) the seventh indent is replaced by the following:

‘— “designated authority” shall mean the competent authority of the Member State responsible for search and rescue or concerned with the aftermath of an accident, having access to the information required under this Directive;’

(d) the ninth indent is deleted;

(e) in the tenth indent, the introductory phrase is replaced by the following:

‘— “regular service” shall mean a series of ship crossings operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls, either;’

(f) the following indent is added:

‘— “port area” shall mean an area as defined in point (r) of Article 2 of Directive 2009/45/EC;’

(g) the following indent is added:

‘— “pleasure yacht or pleasure craft” shall mean a vessel which is not engaged in trade, regardless of its means of propulsion;’

(2) Article 3 is replaced by the following:

Article 3

1. This Directive shall apply to passenger ships, with the exception of:

- ships of war and troop ships,
- pleasure yachts and pleasure craft,
- ships exclusively engaged in port areas or inland waterways.

2. Member States which do not have seaports and which have no passenger ships 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 21 December 2019 if the conditions are met and shall inform the Commission annually thereafter of any subsequent change. Such Member States may not allow passenger ships that fall within the scope of this Directive to fly their flag until they have transposed and implemented this Directive.;

(3) in Article 4, paragraph 2 is replaced by the following:

‘2. Before the passenger ship departs, the number of persons on board shall be communicated to the master of the ship, and reported by appropriate technical means in the single window established pursuant to Article 5 of Directive 2010/65/EU of the European Parliament and of the Council (*), or, if the Member State so chooses, communicated to the designated authority by means of the Automatic Identification System.

For a transitional period of 6 years from 20 December 2017, Member States may continue to allow that information to be communicated to the company’s passenger registrar or to the shore-based company system that performs the same function, instead of requiring it to be reported in the single window or to the designated authority by means of the Automatic Identification System.

(*) Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC (OJ L 283, 29.10.2010, p. 1).;

(4) Article 5 is replaced by the following:

Article 5

1. Where a passenger ship departs from a port located in a Member State in order to undertake a voyage of which the distance sailed from the point of departure to the next port of call exceeds 20 miles, the following information shall be recorded:

- the family names of the persons on board, their forenames, their gender, their nationality, their dates of birth,
- when volunteered by a passenger, information concerning special care or assistance that might be needed in an emergency,
- if the Member State so chooses, when volunteered by the passenger, a contact number in case of an emergency.

2. The information listed in paragraph 1 shall be collected before the passenger ship’s departure and reported in the single window established pursuant to Article 5 of Directive 2010/65/EU upon the passenger ship’s departure but in no case later than 15 minutes after its departure.

3. For a transitional period of 6 years from 20 December 2017, Member States may continue to allow that information be communicated to the company’s passenger registrar or to the shore-based company system that performs the same function, instead of requiring it to be reported in the single window.

4. Without prejudice to other legal obligations that comply with Union and national legislation on data protection, personal data collected for the purposes of this Directive shall not be processed and used for any other purpose. Such personal data shall always be handled in accordance with Union law on data protection and privacy and shall be erased automatically and without undue delay once it is no longer needed.;

(5) in Article 6, paragraph 2 is replaced by the following:

‘2. Each Member State shall, as regards every passenger ship that flies the flag of a third country, departs from a port located outside the Union and is bound for a port located in that Member State, require the company to ensure that the information specified in Articles 4(1) and 5(1) is provided in accordance with Articles 4(2) and 5(2).’;

(6) Article 8 is replaced by the following:

‘Article 8

1. Each company assuming responsibility for operating a passenger ship shall, where required under Articles 4 and 5 of this Directive, appoint a passenger registrar responsible for reporting the information referred to in those provisions in the single window established pursuant to Article 5 of Directive 2010/65/EU or to the designated authority by means of the Automatic Identification System.

2. Personal data collected in accordance with Article 5 of this Directive shall be kept by the company no longer than is necessary for the purposes of this Directive, and in any event only until the moment the ship’s voyage in question has been safely completed and the data has been reported in the single window established pursuant to Article 5 of Directive 2010/65/EU. Without prejudice to other specific legal obligations under Union or national law, including for statistical purposes, once the information is no longer needed for this purpose, it shall be erased automatically and without undue delay.

3. Each company shall ensure that information concerning passengers who have declared a need for special care or assistance in emergency situations is properly recorded and communicated to the master before the passenger ship departs.’;

(7) Article 9 is amended as follows:

(a) paragraph 2 is amended as follows:

- point (a) is deleted,
- points (b) and (c) are replaced by the following:

‘2. A Member State from whose port a passenger ship departs may exempt it from the obligation to report the number of persons on board in the single window established pursuant to Article 5 of Directive 2010/65/EU, provided that the ship concerned is not a high speed craft, it operates regular services of less than one hour between port calls exclusively in sea area D established pursuant to Article 4 of Directive 2009/45/EC and the proximity of search and rescue facilities is ensured in that sea area.

A Member State may exempt passenger ships sailing between two ports or from and to the same port without intermediate calls from the obligations laid down in Article 5 of this Directive, provided that the ship concerned operates exclusively in sea area D established pursuant to Article 4 of Directive 2009/45/EC, and the proximity of search and rescue facilities is ensured in that sea area.’;

- following subparagraph is added:

‘By way of derogation from Article 5(2) and without prejudice to the transitional period laid down in Article 5(3), the following Member States shall have the right to apply the following exemptions:

- (i) Germany may extend the periods for the collection and reporting of information referred to in Article 5(1) to one hour after departure in the case of passenger ships operating from and to the Island of Heligoland; and
- (ii) Denmark and Sweden may extend the periods for the collection and reporting of information referred to in Article 5(1) to one hour after departure in the case of passenger ships operating from and to the Island of Bornholm.’;

(b) in paragraph 3, points (a) and (b) are replaced by the following:

- ‘(a) the Member State shall without delay notify the Commission of its decision to grant an exemption from the obligations laid down in Article 5, giving its substantive reasons for doing so. This notification shall be carried out by means of a database established and maintained by the Commission for that purpose, to which the Commission and Member States shall have access. The Commission shall make the adopted measures available on a publicly accessible website;

(b) if within 6 months of such notification the Commission considers that the exemption is not justified or could have adverse effects on competition, the Commission may adopt implementing acts, requiring the Member State to amend or withdraw its decision. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13(2).;

(c) in paragraph 4, the third subparagraph is replaced by the following:

'The request shall be submitted to the Commission by means of the database referred to in paragraph 3. If within 6 months of such request the Commission considers that the derogation is not justified or could have adverse effects on competition, the Commission may adopt implementing acts, requiring the Member State to amend or not to adopt the proposed decision. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13(2).;

(8) Article 10 is replaced by the following:

'Article 10

1. Member States shall ensure that companies have a procedure for data registration in place which guarantees that information required by this Directive is reported in an accurate and timely manner.

2. Each Member State shall designate the authority that will have access to the information required under this Directive. Member States shall ensure that, in the event of an emergency or in the aftermath of an accident, that designated authority has immediate access to the information required under this Directive.

3. Personal data collected in accordance with Article 5 shall be kept by Member States no longer than is necessary for the purposes of this Directive, and in any event, no longer than:

(a) until the moment the ship's voyage in question has been safely completed, but in any case not longer than 60 days after the ship's departure; or

(b) in the event of emergency or in the aftermath of an accident, until any investigation or judiciary proceedings have been completed.

4. Without prejudice to other specific legal obligations under Union or national law, including obligations for statistical purposes, once the information is no longer needed for the purposes of this Directive, it shall be erased automatically and without undue delay.;

(9) Article 11 is replaced by the following:

'Article 11

1. For the purposes of this Directive the required data shall be collected and recorded in such a way that no undue delay is caused for passengers embarking or disembarking the vessel.

2. A multiplicity of data collection on the same or similar routes shall be avoided.;

(10) the following article is inserted:

'Article 11a

1. The processing of personal data pursuant to this Directive shall be carried out in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council (*).

2. The processing of personal data by Union institutions and bodies pursuant to this Directive, such as in the Single Window and the SafeSeaNet, shall be carried out in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council (**).

(*) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

(**) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).;

(11) Article 12 is replaced by the following:

‘Article 12

1. 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 or incompatibility with Union maritime legislation, the Commission is empowered to adopt delegated acts in accordance with Article 12a, amending this Directive in order not to apply, for the purposes of this Directive, an amendment to the international instruments referred to in Article 2.

2. Those delegated acts shall be adopted at least 3 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.’;

(12) the following Article is inserted:

‘Article 12a

1. The power to adopt delegated acts referred to in Article 12 is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 12 shall be conferred on the Commission for a period of 7 years from 20 December 2017. The Commission shall draw up a report in respect of the delegation of power not later than 9 months before the end of the 7-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 3 months before the end of each period.

3. The delegation of power referred to in Article 12 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 Article 12 shall enter into force only if no objection has been expressed either by the European Parliament or by 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 of the Council.’;

(13) Article 13 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;

(14) the following Article is inserted:

'Article 14a

The Commission shall evaluate the implementation of this Directive and submit the results of the evaluation to the European Parliament and the Council by 22 December 2026.

By 22 December 2022, the Commission shall submit to the European Parliament and to the Council an interim report on the implementation of this Directive.'

Article 2

Amendments to the Annex to Directive 2010/65/EU

In Part A of the Annex to Directive 2010/65/EU, the following point is added:

'7. Information on persons on board

Articles 4(2) and 5(2) of Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community (OJ L 188, 2.7.1998, p. 35).'

Article 3

Transposition

1. By 21 December 2019, 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 21 December 2019.

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 4

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 5

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 15 November 2017.

For the European Parliament
The President
A. TAJANI

For the Council
The President
M. MAASIKAS

DIRECTIVE (EU) 2017/2110 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 15 November 2017****on a system of inspections for the safe operation of ro-ro passenger ships and high-speed passenger craft in regular service and amending Directive 2009/16/EC and repealing Council Directive 1999/35/EC****(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 Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The Union law relating to a system of mandatory surveys for the safe operation of regular ro-ro passenger ship and high-speed passenger craft services dates from 1999. It is now necessary to update that law in order to take account of the progress made in the implementation of the port State control regime put in place by Directive 2009/16/EC of the European Parliament and of the Council ⁽³⁾ as well as experience gained during the operation of the Paris Memorandum of Understanding on Port State Control, signed in Paris on 26 January 1982.
- (2) The Regulatory Fitness and Performance Programme (REFIT) fitness check shows that the Union passenger ship safety legal framework has resulted in a common safety level for passenger ships within the Union. It also shows that, as a result of the way in which Union passenger safety law has developed over time in response to differing demands and situations, there is a certain level of overlap and duplication that can and should be streamlined and simplified to reduce the administrative burden on shipowners, as well as to rationalise the effort required from Member States' maritime administrations.
- (3) Most Member States already, where possible, combine mandatory surveys for the safe operation of regular ro-ro passenger ships with other types of surveys and inspections, that is flag State surveys and port State control inspections. To further reduce the inspection effort and to maximise the time in which the ship or craft can be commercially exploited, whilst continuing to ensure high safety standards, vessels subject to port State control inspections should therefore be transferred so that they fall within the scope of Directive 2009/16/EC. The scope of this Directive should be confined to ships providing regular ro-ro passenger ship and high-speed passenger craft services between ports within a Member State or between a port in a Member State and a port in a third country where the flag of the vessel is the same as the Member State in question. With regard to vessels carrying out regular ro-ro passenger ship and high-speed passenger craft services between a Member State and a third country, Directive 2009/16/EC should apply if the flag is not the same as the flag of the Member State in question.
- (4) The concept of the 'host State' was introduced by Council Directive 1999/35/EC ⁽⁴⁾ in order to facilitate cooperation with third countries prior to the 2004 Union enlargement. This concept is no longer relevant and should therefore be removed.

⁽¹⁾ OJ C 34, 2.2.2017, p. 176.

⁽²⁾ Position of the European Parliament of 4 October 2017 (not yet published in the Official Journal) and decision of the Council of 23 October 2017.

⁽³⁾ 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).

⁽⁴⁾ Council Directive 1999/35/EC of 29 April 1999 on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services (OJ L 138, 1.6.1999, p. 1).

- (5) Directive 1999/35/EC provided that once in every 12-month period host States are to carry out a specific survey and a survey during a regular service. Although the objective of this requirement was to ensure that those two inspections are carried out with a sufficient interval between them, the REFIT fitness check demonstrated that this is not always the case. In order to clarify the inspection regime and to ensure that there is a harmonised inspection framework that ensures a high level of safety, while taking account of the common needs of the passenger services, it should be clarified that the two annual inspections should take place regularly, at approximately 6-monthly intervals. If the vessel is in service, those consecutive inspections should be no less than four and no more than 8 months apart.
- (6) Directive 1999/35/EC refers to 'surveys' rather than 'inspections'. The word survey is used in international conventions to indicate the obligation of flag States to monitor the compliance of ships with the international standards and issue or renew, where relevant, certificates. However, the special inspection regime for ro-ro passenger ships and high-speed passenger craft on regular service cannot be considered to be a survey and the relevant inspection forms are not and cannot be considered to be seaworthiness certificates. Therefore, the term 'survey' should be replaced by 'inspection' when referring to specific surveys as currently provided for in Directive 1999/35/EC.
- (7) Given their specific risk profile, ro-ro passenger ships and high-speed passenger craft should be regularly inspected, as a matter of priority. Any inspection of ro-ro passenger ships and high-speed passenger craft falling within the scope of Directive 2009/16/EC should be included in the total number of annual inspections carried out by each Member State.
- (8) Costs related to inspections leading to the prohibition of departure of vessels should be paid by the company.
- (9) In order to take account of developments at international level and of experience gained, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union 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 specifications. 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⁽¹⁾. 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.
- (10) Directive 2009/16/EC should be amended to ensure that the content and frequency of ro-ro passenger ships and high-speed passenger craft inspections is maintained. Specific provisions for inspections and verifications of ro-ro passenger ships and high-speed passenger craft on regular service that are eligible for port State control should be therefore introduced into Directive 2009/16/EC.
- (11) When inspections are carried out under Directive 2009/16/EC, all possible efforts should be made to avoid a ship being unduly detained or delayed.
- (12) It is important to take into account the onboard working and living conditions of the crew and the training and qualifications of its members, given that health, safety and social considerations are closely intertwined.
- (13) In view of the full monitoring cycle of European Maritime Safety Agency visits, the Commission should evaluate the implementation of this Directive no later than 7 years after the deadline for the transposition of this Directive and report to the European Parliament and the Council thereon. Member States should cooperate with the Commission to gather all the information necessary for this evaluation.
- (14) In order not to impose a disproportionate administrative burden on landlocked Member States, a *de minimis* rule should allow such Member States to derogate from the provisions of this Directive, which means that such Member States, as long as they meet certain criteria, are not obliged to transpose this Directive.
- (15) Since the objectives of this Directive, namely ensuring safe operation of ro-ro passenger ships and high-speed passenger craft in regular service, cannot be sufficiently achieved by the Member States in view of the internal market dimension of maritime passenger transport and the cross-border nature of the operation of such ships

⁽¹⁾ OJ L 123, 12.5.2016, p. 1.

and craft in the Union and at international level, but can rather be achieved at Union level by establishing a common level of safety and avoiding distortion of competition, the Union may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

- (16) To increase legal clarity and consistency and in view of the number of amendments concerned, Directive 1999/35/EC should be repealed and Directive 2009/16/EC should be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Scope

1. This Directive applies to ro-ro passenger ships and high-speed passenger craft operating:
 - (a) on a regular service between a port of a Member State and a port of a third country where the flag of the vessel is the same as that of the Member State in question; or
 - (b) on a regular service on domestic voyages in sea areas in which ships of Class A may operate in accordance with Article 4 of Directive 2009/45/EC of the European Parliament and of the Council ⁽¹⁾.
2. This Directive does not apply to ro-ro passenger ships and high-speed passenger craft falling under Directive 2009/16/EC.
3. Member States may apply this Directive to ro-ro passenger ships and high-speed passenger craft operating on a regular service on domestic voyages in sea areas other than those referred to in paragraph 1(b).
4. Member States which do not have seaports and which can verify that of the total number of individual vessels calling annually over a period of the 3 previous years at their river ports, less than 5 % are passenger ships or high-speed passenger craft covered by this Directive, may derogate from the provisions of this Directive except for the obligation set out in the second subparagraph.

Those Member States which do not have seaports shall communicate to the Commission by 21 December 2019 the total number of vessels and the number of ro-ro passenger ships and high-speed passenger craft calling at their ports during the 3-year period referred to in the first subparagraph and shall inform the Commission annually thereafter of any subsequent change to the abovementioned figures.

Article 2

Definitions

For the purposes of this Directive, the following definitions apply:

- (1) 'ro-ro passenger ship' means a ship with facilities to enable road or rail vehicles to roll on and roll off the vessel, and carrying more than 12 passengers;
- (2) 'high-speed passenger craft' means a craft as defined in Regulation 1 of Chapter X of SOLAS 74, and carrying more than 12 passengers;
- (3) 'SOLAS 74' means the 1974 International Convention for the Safety of Life at Sea, including Protocols and amendments thereto, in its up-to-date version;

⁽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).

- (4) 'High Speed Craft Code' means the 'International Code of Safety for High Speed Craft' contained in IMO Maritime Safety Committee Resolution MSC.36(63) of 20 May 1994 or the International Code of Safety for High-Speed Craft, 2000 (2000 HSC Code), contained in IMO Resolution MSC.97(73) of December 2000, in its up-to-date version;
- (5) 'HSSC' means the IMO Survey Guidelines under the Harmonized System of Survey and Certification, in its up-to-date version;
- (6) 'regular service' means a series of ro-ro passenger ship or high-speed passenger craft crossings operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls, either:
 - (a) according to a published timetable; or
 - (b) with crossings so regular or frequent that they constitute a recognisable systematic series;
- (7) 'sea area' means any sea area or sea route established pursuant to Article 4 of Directive 2009/45/EC;
- (8) 'certificates' means:
 - (a) for ro-ro passenger ships and high-speed passenger craft engaged on international voyages, the safety certificates issued under SOLAS 74 or under the High Speed Craft Code respectively, together with the relevant attached records of equipment;
 - (b) for ro-ro passenger ships and high-speed passenger craft engaged on domestic voyages, the safety certificates issued in accordance with Directive 2009/45/EC together with the relevant attached records of equipment;
- (9) 'administration of the flag State' means the competent authorities of the State whose flag the ro-ro passenger ship or the high-speed passenger craft is entitled to fly;
- (10) 'domestic voyage' means a voyage in sea areas from a port of a Member State to the same or another port within that Member State;
- (11) 'company' means the organisation or person who has agreed to take over all the duties and responsibilities imposed by the International Management Code for Safe Operation of Ships and for Pollution Prevention (the ISM Code) in its up-to-date version or, in cases where Chapter IX of SOLAS 74 does not apply, the owner of the ro-ro passenger ship or the high-speed passenger craft or any other organisation or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ro-ro passenger ship or the high-speed passenger craft from its owner;
- (12) 'inspector' means a public-sector employee or other person, duly authorised by the competent authority of a Member State to carry out the inspections provided for in this Directive, who is responsible to that competent authority and who fulfills the minimum criteria specified in Annex XI to Directive 2009/16/EC;
- (13) 'competent authority of the Member State' means the authority appointed by the Member State under this Directive and responsible for carrying out the tasks assigned to it by this Directive.

Article 3

Pre-commencement inspections

1. Before a ro-ro passenger ship or high-speed passenger craft starts to operate on a regular service covered by this Directive, the competent authorities of the Member States shall carry out a pre-commencement inspection, consisting of:
 - (a) verification of the compliance with the requirements laid down in Annex I; and
 - (b) an inspection, in accordance with Annex II, to satisfy themselves that the ro-ro passenger ship or high-speed craft fulfills the necessary requirements for safe operation of a regular service.
2. The pre-commencement inspection shall be carried out by an inspector.
3. When requested by a Member State, companies shall provide evidence of compliance with the requirements of Annex I in advance of but not earlier than 1 month before the pre-commencement inspection.

*Article 4***Exceptions to the pre-commencement inspection obligation**

1. In the case of pre-commencement inspections, a Member State may decide not to apply certain requirements or procedures in Annexes I and II relevant to any annual flag State survey or inspection carried out within the previous 6 months, provided that relevant procedures and guidelines for surveys specified in HSSC or procedures designed to achieve the same goal have been followed. Member States shall transfer the relevant information to the inspection database in accordance with Article 10.
2. When a ro-ro passenger ship or high-speed passenger craft is to be engaged on a regular service, the Member State may take into account inspections and surveys previously carried out in respect of that ro-ro passenger ship or high-speed passenger craft for operation on another regular service covered by this Directive. Provided that the Member State is satisfied with those previous inspections and surveys and that they are relevant to the new operational conditions, the inspections provided for in Article 3(1) do not need to be applied before the ro-ro passenger ship or high-speed passenger craft starts operating on the new regular service.
3. At the request of a company, Member States may confirm in advance that they agree that the previous inspections and surveys are relevant to the new operational conditions.
4. Where, due to unforeseen circumstances, there is an urgent need for the rapid introduction of a replacement ro-ro passenger ship or high-speed passenger craft to ensure continuity of service, and paragraph 2 does not apply, the Member State may allow the ro-ro passenger ship or craft to start operating provided that the following conditions are met:
 - (a) a visual inspection and document check raises no concerns that the ro-ro passenger ship or high-speed passenger craft does not fulfil the necessary requirements for safe operation; and
 - (b) the Member State completes the pre-commencement inspection provided for in Article 3(1) within 1 month.

*Article 5***Regular inspections**

1. Member States shall once in every 12-month period, carry out:
 - (a) an inspection, in accordance with Annex II; and
 - (b) an inspection during a regular service, taking place not before 4 months but not later than 8 months after the inspection referred to in point (a) and covering the items listed in Annex III and what, in the professional judgment of the inspector, constitutes a sufficient number of the items listed in Annexes I and II to ensure that the ro-ro passenger ship or high-speed passenger craft continues to fulfill all the necessary requirements for safe operation.

A pre-commencement inspection in accordance with Article 3 shall be considered to be an inspection for the purposes of point (a).

2. The inspection referred to in point (a) of paragraph 1 may, at the discretion of the Member State, be carried out at the same time as, or in conjunction with, the annual flag State survey provided that the relevant procedures and guidelines for surveys as specified in HSSC or procedures designed to achieve the same goal are followed.
3. Member States shall carry out an inspection in accordance with Annex II each time the ro-ro passenger ship or high-speed passenger craft undergoes repairs, alterations and modifications of a major character, or when there is a change of management, or a transfer of class. However, in the case of a change of management, or transfer of class, the Member State may, after taking account of inspections previously carried out in respect of the ro-ro passenger ship or high-speed passenger craft, and provided that the safe operation of the ro-ro passenger ship or craft is not affected by this change or transfer, exempt the ro-ro passenger ship or high-speed passenger craft from the inspection required by the first sentence of this paragraph.

*Article 6***Inspection report**

1. On completion of any inspection carried out in accordance with this Directive, the inspector shall draw up a report in accordance with Annex IX to Directive 2009/16/EC.
2. The information contained in the report shall be communicated to the inspection database provided for in Article 10. The master shall also be provided with a copy of the inspection report.

*Article 7***Rectification of deficiencies, prohibition of departure and suspension of inspection**

1. Member States shall ensure that any deficiencies confirmed or revealed by an inspection carried out in accordance with this Directive are rectified.
2. Where the deficiencies are clearly hazardous to health or safety or pose an immediate danger to health or life, the ro-ro passenger ship or high-speed passenger craft, its crew and passengers, the competent authority of the Member State shall ensure that the ro-ro passenger ship or high-speed passenger craft is subject to an order prohibiting its departure ('a prohibition of departure order'). The master shall be provided with a copy of that order.
3. The prohibition of departure order shall not be lifted until the deficiency has been rectified and the hazard has been removed to the satisfaction of the competent authority of the Member State or until the competent authority of the Member State has established that the ship or craft can, subject to any necessary conditions, proceed to sea or resume operation without risk to the safety and health of passengers or crew, or risk to the ro-ro passenger ship or high-speed passenger craft or other ships.
4. If a deficiency referred to in paragraph 2 cannot be readily rectified in the port in which the deficiency has been confirmed or revealed, the competent authority of the Member State may agree to allow the ship or craft to proceed to an appropriate repair yard where the deficiency can be readily rectified.
5. In exceptional circumstances, where the overall condition of a ro-ro passenger ship or high-speed passenger craft is obviously substandard, the competent authority of the Member State may suspend the inspection of that ship or craft until the company takes the steps necessary to ensure that the ro-ro passenger ship or high-speed passenger craft is no longer clearly hazardous to safety or health or no longer poses an immediate danger to the life of its crew and passengers or to ensure that it complies with the relevant requirements of applicable international conventions.
6. Where the competent authority of the Member State suspends the inspection in accordance with paragraph 5, the ro-ro passenger ship or high-speed passenger craft shall be automatically placed under a prohibition of departure order. The prohibition of departure order shall be lifted where the inspection has been resumed and successfully completed and where the conditions set out in paragraph 3 of this Article and in Article 9(2) have been complied with.
7. In order to alleviate port congestion, the competent authority of the Member State may allow a ro-ro passenger ship or high-speed passenger craft subject to a prohibition of departure order to be moved to another part of the port if it is safe to do so. However, the risk of port congestion shall not be a consideration when deciding whether to impose or to lift a prohibition of departure order. Port authorities or bodies shall facilitate the accommodation of such ships.

*Article 8***Right of appeal**

1. The company shall have a right of appeal against a prohibition of departure order issued by the competent authority of the Member State. An appeal shall not suspend the prohibition of departure order, unless interim measures are granted in accordance with national law. Member States shall establish and maintain appropriate procedures for this purpose in accordance with their national legislation.
2. The competent authority of the Member State shall inform the master of the ro-ro passenger ship or high-speed passenger craft subject to a prohibition of departure order of the right of appeal and the applicable procedures. When, as a result of an appeal, a prohibition of departure order is revoked or amended, Member States shall ensure that the inspection database provided for in Article 10 is updated accordingly without delay.

Article 9

Costs

1. Where the inspections referred to in Articles 3 and 5 confirm or reveal deficiencies warranting a prohibition of departure order, all costs relating to the inspections shall be covered by the company.
2. The prohibition of departure order shall not be lifted until full payment is made or a sufficient guarantee is given for reimbursement of the costs.

Article 10

Inspection database

1. The Commission shall develop, maintain and update an inspection database to which all Member States shall be connected and which shall contain all the information required for the implementation of the inspection system provided for by this Directive. This database will be based on the inspection database referred to in Article 24 of Directive 2009/16/EC and shall have similar functionalities to that database.
2. Member States shall ensure that the information related to inspections carried out in accordance with this Directive, including information concerning deficiencies and prohibition of departure orders, is transferred without delay to the inspection database as soon as the inspection report is completed or the prohibition of departure order lifted. With regard to the particulars of the information, provisions of Annex XIII to Directive 2009/16/EC shall apply *mutatis mutandis*.
3. Member States shall ensure that the information transferred to the inspection database is validated for publication purposes within 72 hours.
4. The Commission shall ensure that the inspection database makes it possible to retrieve any relevant data concerning the implementation of this Directive based on inspection data provided by Member States.
5. Member States shall have access to all the information recorded in the inspection database which is relevant for implementing the inspection system provided for in this Directive and in Directive 2009/16/EC.

Article 11

Penalties

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

Article 12

Amendment procedure

1. The Commission is empowered to adopt delegated acts in accordance with Article 13, amending the Annexes to this Directive in order to take account of developments at international level, in particular within the IMO, and to improve the technical specifications thereof in the light of experience gained.
2. 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 13, 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 3 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 such an 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.

*Article 13***Exercise of the delegation**

1. The power to adopt delegated acts referred to in Article 12 is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 12 shall be conferred on the Commission for a period of 7 years from 20 December 2017. The Commission shall draw up a report in respect of the delegation of power not later than 9 months before the end of the 7-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 3 months before the end of each period.
3. The delegation of power referred to in Article 12 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 Article 12 shall enter into force only if no objection has been expressed either by the European Parliament or by 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 of the Council.

*Article 14***Amendments to Directive 2009/16/EC**

Directive 2009/16/EC is amended as follows:

(1) in Article 2, the following points are inserted:

- '25. "ro-ro passenger ship" means a ship with facilities to enable road or rail vehicles to roll on and roll off the vessel, and carrying more than 12 passengers;
26. "high-speed passenger craft" means a craft as defined in Regulation 1 of Chapter X of SOLAS 74, and carrying more than 12 passengers;
27. "regular service" means a series of ro-ro passenger ship or high-speed passenger craft crossings operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls, either:
 - (i) according to a published timetable; or
 - (ii) with crossings so regular or frequent that they constitute a recognisable systematic series;'

(2) in Article 3(1), the following subparagraph is added:

'This Directive shall also apply to inspections of ro-ro passenger ships and high-speed passenger craft carried out outside a port or away from an anchorage during a regular service in accordance with Article 14a.;

(3) in Article 13, the introductory phrase is replaced by the following:

'Member States shall ensure that ships which are selected for inspection in accordance with Article 12 or Article 14a are subject to an initial inspection or a more detailed inspection as follows:;

(4) the following Article is inserted:

'Article 14a

Inspection of ro-ro passenger ships and high speed passenger craft in regular service

1. Ro-ro passenger ships and high-speed passenger craft operating on a regular service are eligible for inspections in accordance with the time frame and other requirements set out in Annex XVII.
2. Member States shall, when planning inspections of a ro-ro passenger ship or high-speed passenger craft, take due account of the operational and maintenance schedule of the ro-ro passenger ship or high-speed passenger craft.
3. When a ro-ro passenger ship or high-speed passenger craft has been subject to an inspection in accordance with Annex XVII, such inspection shall be recorded in the inspection database, and shall be taken into account for the purposes of Articles 10, 11 and 12 and for calculating the fulfillment of the inspection commitment of each Member State. It shall be included in the total number of annual inspections carried out by each Member State, provided for in Article 5.
4. Article 9(1), Article 11(a) and Article 14 shall not apply to ro-ro passenger ships and high-speed passenger craft on a regular service inspected under this Article.
5. The competent authority shall ensure that the ro-ro passenger ships or high-speed passenger craft that are subject to an additional inspection in accordance with Article 11(b) are selected for inspection in accordance with Annex I, Part II 3A(c) and 3B(c). Inspections carried out under this paragraph shall not affect the inspection interval provided for in paragraph 2 of Annex XVII.
6. The inspector of the competent authority of the port State may agree to be accompanied, during an inspection of a ro-ro passenger ship or high-speed passenger craft, by a port State inspector of another Member State acting as an observer. Where the flag of the vessel is that of a Member State, the port State shall, upon request, invite a representative of the flag State to accompany the inspection as an observer.;

(5) in Article 15, paragraph 3 is deleted;

(6) in Article 16, paragraph 1 is replaced by the following:

1. A Member State shall refuse access to its ports and anchorages to any ship which:
 - flies the flag of a State whose detention rate falls into the black list, adopted in accordance with the Paris MOU on the basis of information recorded in the inspection database and published annually by the Commission, and has been detained more than twice in the course of the preceding 36 months in a port or anchorage of a Member State or of a State signatory of the Paris MOU, or
 - flies the flag of a State whose detention rate falls into the grey list, adopted in accordance with the Paris MOU on the basis of information recorded in the inspection database and published annually by the Commission, and has been detained more than twice in the course of the preceding 24 months in a port or anchorage of a Member State or of a State signatory of the Paris MOU.

The first subparagraph shall not apply to the situations described in Article 21(6).

The refusal of access shall be applicable as soon as the ship leaves the port or anchorage where it has been the subject of a third detention and where a refusal of access order has been issued.;

(7) The following Annex is added:

'ANNEX XVII

Inspection of ro-ro passenger ships and high-speed passenger craft on a regular service

- 1.1. Before a ro-ro passenger ship or high-speed passenger craft starts to operate on a regular service covered by this Directive, Member States shall carry out an inspection, in accordance with Article 3(1) of Directive (EU) 2017/2110 (*), to ensure that that ro-ro passenger ship or high-speed passenger craft fulfills the necessary requirements for the safe operation of a regular service.

- 1.2. When a ro-ro passenger ship or high-speed passenger craft is to be engaged on a regular service, the Member State concerned may take into account inspections carried out within the last 8 months by another Member State in respect of that ro-ro passenger ship or high-speed passenger craft for operations on another regular service covered by this Directive, provided that the Member State is satisfied in every case that those previous inspections are relevant to the new operational conditions and that during those inspections the necessary requirements for the safe operation of a regular service were fulfilled. The inspections provided for in point 1.1 do not need to be applied before the ro-ro passenger ship or high-speed passenger craft starts operating on the new regular service.
- 1.3. Where, due to unforeseen circumstances, there is an urgent need for the rapid introduction of a replacement ro-ro passenger ship or high-speed passenger craft to ensure continuity of service, and point 1.2 is not applicable, the Member State may allow the passenger ship or craft to start operating provided that the following conditions are met:
 - (a) a visual inspection and document check raises no concerns that the ro-ro passenger ship or high-speed passenger craft does not fulfill the necessary requirements for safe operation; and
 - (b) the Member State completes the inspection provided for in Article 3(1) of Directive (EU) 2017/2110 within 1 month.
2. Member States shall, once per year, but not before 4 months and not later than 8 months following the previous inspection, carry out:
 - (a) an inspection, including the requirements of Annex II to Directive (EU) 2017/2110 and of Commission Regulation (EU) No 428/2010 (**) as applicable; and
 - (b) an inspection during a regular service. This inspection shall cover the items listed in Annex III to Directive (EU) 2017/2110 and what, in the professional judgment of the inspector, constitutes a sufficient number of the items listed in Annexes I and II to Directive (EU) 2017/2110, to ensure that the ro-ro passenger ship or high-speed passenger craft continues to fulfill all the necessary requirements for safe operation.
3. Where a ro-ro passenger ship or high-speed passenger craft has not been inspected in accordance with point 2, the ro-ro passenger ship or high-speed passenger craft shall be considered to be Priority I.
4. An inspection in accordance with point 1.1 shall be considered to be an inspection for the purposes of point 2(a) of this Annex.

(*) Directive (EU) 2017/2110 of the European Parliament and of the Council of 15 November 2017 on a system of inspections for the safe operation of ro-ro passenger ships and high-speed passenger craft in regular service and amending Directive 2009/16/EC and repealing Council Directive 1999/35/EC (OJ L 315, 30.11.2017, p. 61).

(**) Commission Regulation (EU) No 428/2010 of 20 May 2010 implementing Article 14 of Directive 2009/16/EC of the European Parliament and of the Council as regards expanded inspections of ships (OJ L 125, 21.5.2010, p. 2).

Article 15

Repeal

Directive 1999/35/EC is repealed.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex IV.

Article 16

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 21 December 2026.

*Article 17***Transposition**

1. By 21 December 2019, 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 21 December 2019.

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 18***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 19***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 15 November 2017.

For the European Parliament

The President

A. TAJANI

For the Council

The President

M. MAASIKAS

ANNEX I

SPECIFIC REQUIREMENTS FOR VESSELS IN REGULAR SERVICE**(as referred to in Articles 3 and 5)**

The following shall be verified:

1. that the master is provided with appropriate information on the availability of shore-based navigational guidance systems and other information schemes to assist him in the safe conduct of the voyages, before the ro-ro passenger ship or high-speed passenger craft begins to sail, and that he makes use of the navigational guidance and information schemes set up by Member States;
 2. that the relevant provisions of paragraphs 2 to 6 of MSC/Circular 699 of 17 July 1995 'Revised guidelines for passenger safety instructions' are applied;
 3. that a table with the shipboard working arrangements is posted in an easily accessible place, and contains:
 - (a) the schedule of service at sea and service in port; and
 - (b) the maximum hours of work or the minimum hours of rest required for watchkeepers;
 4. that the master is not constrained from taking any decision which in the master's professional judgment is necessary for safe navigation and operation, in particular in severe weather and in heavy seas;
 5. that the master keeps a record of navigational activities and incidents which are of importance to safety of navigation;
 6. that any damage to, or permanent deflection of shell doors and associated hull plating that may affect the integrity of the ro-ro passenger ship or high-speed passenger craft, and any deficiencies in the securing arrangements of such doors, are promptly reported to both the flag State administration and the port State and are promptly repaired to their satisfaction;
 7. that an up-to-date voyage plan is available before the departure of the ro-ro passenger ship or high-speed passenger craft on its voyage and that in preparing the voyage plan the guidelines set out in IMO Assembly Resolution A.893(21) of 25 November 1999 'Guidelines for voyage planning' are taken fully into account;
 8. that general information about the services and assistance available to elderly and disabled persons on board is made known to the passengers and is made available in formats suitable for people with impaired sight.
-

ANNEX II

PROCEDURES FOR INSPECTIONS**(as referred to in Articles 3 and 5)**

1. The inspections shall ensure that statutory requirements issued by or on behalf of the flag State, in particular those relating to construction, subdivision and stability, machinery and electrical installations, loading and stability, fire protection, maximum number of passengers, life saving appliances and the carriage of dangerous goods, radiocommunications and navigation are fulfilled. For that purpose, the inspections shall include:
 - the starting of the emergency generator,
 - an inspection of emergency lighting,
 - an inspection of the emergency source of power for radio-installations,
 - a test of the public address system,
 - a fire drill, including a demonstration of the ability to use firemen's outfits,
 - the operation of the emergency fire-pump with two firehoses connected to the fire main line in operation,
 - the testing of the remote emergency stop controls for fuel supply to boilers, main and auxiliary engines, and for ventilation fans,
 - the testing of remote and local controls for the closing of fire dampers,
 - the testing of fire detection and alarm systems,
 - the testing of proper closing of fire doors,
 - the operation of bilge pumps,
 - the closing of watertight bulkhead doors; both from the local and remote control positions,
 - a demonstration that shows that key crew members are acquainted with the damage control plan,
 - the lowering of at least one rescue boat and one lifeboat to the water, starting and testing their propulsion and steering system, and recovering them from the water into their stowed position on board,
 - the checking that all lifeboats and rescue boats correspond to the inventory,
 - the testing of the ship's or craft's steering gear and auxiliary steering gear.
2. Inspections shall focus on the familiarisation of crew members with, and their effectiveness in, safety procedures, emergency procedures, maintenance, working practices, passenger safety, bridge procedures and cargo and vehicle-related operations. Seafarers' ability to understand and, where appropriate, give orders and instructions and report back in the common working language, as recorded in the ship's logbook shall be checked. The documented evidence that crew members have successfully followed a special training shall be checked, in particular with regard to:
 - crowd-management training,
 - familiarisation training,
 - safety training for personnel providing direct safety assistance to passengers in passenger spaces, and in particular to elderly and disabled persons in an emergency, and
 - crisis management and human behaviour training.

The inspection shall include an assessment whether rostering patterns are causing unreasonable fatigue particularly for watch-keeping personnel.

3. Certificates of competency of crew members serving on board vessels falling within the scope of this Directive shall comply with the provisions of Directive 2008/106/EC of the European Parliament and of the Council ⁽¹⁾.

⁽¹⁾ Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers (OJ L 323, 3.12.2008, p. 33).

ANNEX III

PROCEDURES FOR CARRYING OUT INSPECTIONS DURING A REGULAR SERVICE**(as referred to in Article 5)**

When carrying out inspections during a regular service, the following shall be checked:

1. Passenger information

That the number of passengers for which the ro-ro passenger ship or high-speed passenger craft ('the ship') is certified is not exceeded, and that the registration of passenger information complies with Council Directive 98/41/EC⁽¹⁾. How the information on the total number of passengers is passed to the master and, if appropriate, how passengers undertaking a double crossing without going ashore are included in the total for the return voyage.

2. Loading and stability information

That, when applicable, reliable draught gauges are fitted and are in use. That measures are taken to ensure that the ship is not overloaded and the appropriate sub-division load line is not submerged. That the loading and stability assessment is carried out as required. That goods vehicles and other cargo are weighed where required and the figures passed to the ship for use in the loading and stability assessment. That damage control plans are permanently exhibited and that booklets containing damage control information are provided for the ship's officers.

3. Security for sea

That the procedure to ensure that the ship is secured for sea before leaving the berth, which should include a positive reporting procedure that all the shell watertight and weather-tight doors are closed is followed. That all the vehicle deck doors are closed before the ship leaves the berth or remain open long enough only to enable the bow visor to be closed, the closing arrangements for the bow, stern and side doors, and the provision of indicator lights and TV surveillance to show their status on the navigating bridge. Any difficulties with the operation of the indicator lights, particularly the switches at the doors, should be ascertained and reported.

4. Safety announcements

That the form of routine safety announcements and the posting of instructions and guidance on emergency procedures occurs in the appropriate language or languages. That the routine safety announcement takes place at the commencement of the voyage and can be heard in all public spaces, including open decks, to which passengers have access.

5. Log book entries

That the log book is examined to ensure that the entries are being made regarding the closing of the bow, stern and other watertight and weather-tight doors, drills for sub-division watertight doors, testing of steering gears, etc. Also that draughts, freeboard and stability are being recorded as well as the common working language for the crew.

6. Dangerous goods

That any cargo of dangerous or polluting goods is carried in accordance with the relevant regulations and, in particular, that a declaration concerning dangerous and polluting goods is provided together with a manifest or stowage plan to show their location on board, that the carriage of the particular cargo is permitted on passenger ships, and that the dangerous and polluting goods are properly marked, labelled, stowed, secured and segregated.

That vehicles carrying dangerous and polluting goods are properly placarded and secured. That, when dangerous and polluting goods are carried, a copy of the relevant manifest or stowage plan is available ashore. That the master is aware of the notification requirements under Directive 2002/59/EC of the European Parliament and of the

⁽¹⁾ Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community (OJ L 188, 2.7.1998, p. 35).

Council ⁽¹⁾ and of the instructions on the emergency procedures to be followed and the rendering of first aid should there be an incident involving the dangerous goods or marine pollutants. That the means of ventilating the vehicle decks is in use at all times, is increased when the engines of the vehicles are running and that there is some form of indication on the bridge to show that the vehicle deck ventilation is in operation.

7. Securing freight vehicles

How freight vehicles are secured, for example, whether block stow or individual lashings. Whether sufficient strong points are available. The arrangements for securing freight vehicles when adverse weather is experienced or expected. The method of securing coaches and motor cycles, if any. That the ship has a cargo securing manual.

8. Vehicle decks

Whether special category and ro-ro cargo spaces are being continuously patrolled or monitored by a TV surveillance system so that the movement of vehicles in adverse weather and the unauthorised entry of passengers may be observed. That fire doors and entrances are kept shut and that notices are posted to keep passengers off the vehicle decks whilst the ship is at sea.

9. Closure of watertight doors

That the policy laid down in the ship's operational instructions for the sub-division watertight doors is being followed. That the required drills are being carried out. That the bridge control for the watertight doors is kept, when possible, on 'local' control. That the doors are being kept closed in restricted visibility and any hazardous situation. That crews are instructed in the correct way to operate the doors and are aware of the dangers of their misuse.

10. Fire patrols

That an efficient patrol is being maintained so that any outbreak of fire may be readily detected. This should include special category spaces where no fixed fire detection and alarm system is fitted. Those spaces may be patrolled as indicated in point 8.

11. Communications in an emergency

That there are sufficient crew members in accordance with the muster list to assist passengers in an emergency and that they are readily identifiable and able to communicate with the passengers in an emergency, taking into account an appropriate and adequate combination of any of the following factors:

- (a) the language or languages appropriate to the principal nationalities of passengers carried on a particular route;
- (b) the likelihood that an ability to use elementary English vocabulary for basic instructions can provide a means of communicating with a passenger in need of assistance if the passenger and crew Member do not share a common language;
- (c) the possible need to communicate during an emergency by other means (e.g. by demonstration, hand signals, or calling attention to the location of instructions, muster stations, life-saving devices or evacuation routes when verbal communication is impractical);
- (d) whether complete safety instructions have been provided to passengers in their native language or languages;
- (e) the languages in which emergency announcements may be broadcast during an emergency or drill to convey critical guidance to passengers and to facilitate crew members in assisting passengers.

12. Common working language between crew members

That a working language has been established to ensure effective crew performance in safety matters and that this working language is recorded in the ship's logbook.

⁽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).

13. Safety equipment

That the live-saving and fire appliances, including the fire doors and other items of the structural fire protection that can be readily inspected, are being maintained. That fire control plans are permanently exhibited or booklets containing the equivalent information are provided for the information of the ship's officers. That the stowage of the lifejackets is appropriate and that the stowage of children's lifejackets may be readily identified. That the loading of vehicles does not prevent the operation of the fire controls, emergency shut-offs, controls for the storm valves, etc. that may be located on the vehicle decks.

14. Navigational and radio equipment

That the navigational and radio communications equipment, including emergency position-indicating radio beacons (EPIRBs), are operational.

15. Supplementary emergency lighting

That supplementary emergency lighting is fitted, when required by the regulations, and that a record of deficiencies is being kept.

16. Means of escape

That means of escape, including escape routes, are marked, in accordance with the applicable requirements, and lighted, from both the main and emergency sources of power. That measures are taken to keep vehicles clear of escape routes where those escape routes cross or pass through vehicle decks. That exits, particularly exits from duty free shops, which have been found to be blocked by an excess of goods, are kept clear.

17. Engine room cleanliness

That the engine room is maintained in a clean condition in accordance with the maintenance procedures.

18. Garbage disposal

That the arrangements for the handling and disposal of garbage are satisfactory.

19. Planned maintenance

That all companies have specific standing orders, with a planned maintenance system, for all safety related areas including bow and stern doors and side openings, together with their closing arrangements, but also covering engine room maintenance and safety equipment. That there are plans in place for periodically checking all items so as to maintain safety standards at the highest level. That there are procedures in place for recording deficiencies and confirming they have been properly rectified so that the master and the designated person ashore within the company management structure are aware of the deficiencies and are notified when they have been rectified within a time specified. That periodic checking of the operation of the inner and outer bow door closing arrangements includes the indicators, surveillance equipment and any scuppers in the spaces between the bow visor and the inner door and especially the closing mechanisms and their associated hydraulic systems.

20. Making a voyage

When making a voyage the opportunity should be taken to check overcrowding, including the availability of seats and the blocking of passageways, stairs and emergency exits by baggage and by passengers unable to find seats. It is necessary to check that the vehicle deck is vacated by passengers before the ship sails and that they do not again have access until immediately prior to docking.

ANNEX IV

CORRELATION TABLE

Directive 1999/35/EC	This Directive
Article 1	—
Article 2, points (a), (b), (d), (e), (f), (g), (h), (j), (m), (o), (r)	Article 2, points (1), (2), (3), (4), (6), (7), (8), (9), (10), (11), (12)
Article 2, points (c), (i), (k), (l), (n), (p), (q), (s)	—
Article 3	Article 1
Article 4	—
Article 5, point (1)(a)	Article 3
Article 5, points (1)(b), (2)	—
Article 6	Article 3
Article 7	Article 4
Article 8(1)	Article 5(1)
Article 8(2)	Article 5(3)
Article 8(3)	Article 9(1)
Article 9	Article 6
Article 10(1)(a), (b), (c),	Article 7
Article 10(1)(d)	—
Article 10(2)	Article 7
Article 10(3)	Article 8
Article 10(4)	—
Article 11(1), (2), (3), (4), (5), (7), (8)	—
Article 11(6)	Article 6(1)
Article 13(1), (2), (4), (5)	—
Article 13(3)	Article 6(2) and Article 10
Article 14	—
Article 15	—
Article 16	—
Article 17	Article 12
Article 18	Article 11
Article 19	Article 17
Article 20	Article 16
Article 21	Article 18
Article 22	Article 19
Annex I	Annex I

CORRIGENDA**Corrigendum to Regulation (EU) No 98/2013 of the European Parliament and of the Council of 15 January 2013 on the marketing and use of explosives precursors**

(Official Journal of the European Union L 39 of 9 February 2013)

On page 10, Annex I, the table, footnote reference (1):

for: ⁽¹⁾ Commission Regulation (EC) No 948/2009 (OJ L 287, 31.10.2009, p. 1).’,

read: ⁽¹⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).’;

on page 11, Annex II, the table, footnote reference (1):

for: ⁽¹⁾ Regulation (EC) No 948/2009.’,

read: ⁽¹⁾ Regulation (EEC) No 2658/87.’.

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