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I

(Legislative acts)

REGULATIONS

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**

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 living aquatic resources that provides sustainable economic, environmental and social conditions.
- (2) The Union is Party to the International Convention for the Conservation of Atlantic Tunas ⁽⁴⁾ ('the Convention').
- (3) At its 15th special meeting in 2006, the International Commission for the Conservation of Atlantic Tunas ('ICCAT'), established by the Convention, adopted Recommendation 06-05 establishing a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean ending in 2022 ('the recovery plan'). That Recommendation entered into force on 13 June 2007.
- (4) The recovery plan takes into account the specificities of the different types of gear and fishing techniques. When implementing the recovery plan, 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.

⁽¹⁾ OJ C 383, 17.11.2015, p. 100.

⁽²⁾ Position of the European Parliament of 23 June 2016 (not yet published in the Official Journal) and decision of the Council of 18 July 2016.

⁽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⁾ International Convention for the Conservation of Atlantic Tunas (OJ L 162, 18.6.1986, p. 34).

- (5) ICCAT Recommendation 06-05 was implemented into Union law by Council Regulation (EC) No 1559/2007 ⁽¹⁾.
- (6) At its 16th special meeting in 2008, ICCAT adopted Recommendation 08-05 amending Recommendation 06-05. In order to rebuild the stock of bluefin tuna, Recommendation 08-05 provided for a gradual reduction in the total allowable catch level from 2007 to 2011, restrictions on fishing within certain areas and time periods, a new minimum size for bluefin tuna, measures concerning sport and recreational fishing activities, farming and fishing capacity measures, as well as reinforcing the ICCAT Scheme of Joint International Inspection.
- (7) ICCAT Recommendation 08-05 was implemented into Union law by Council Regulation (EC) No 302/2009 ⁽²⁾.
- (8) At its 17th special meeting in 2010, ICCAT adopted Recommendation 10-04 amending Recommendation 08-05. In order to rebuild the stock of bluefin tuna, Recommendation 10-04 established a further reduction of the total allowable catch and the fishing capacity and it reinforced the control measures, in particular those concerning transfer and caging operations. It also provided for additional advice by the Standing Committee on Research and Statistics of ICCAT ('SCRS') in 2012 on the identification of spawning grounds and on the creation of sanctuaries.
- (9) In order to implement the revised international conservation measures set out in Recommendation 10-04 into Union law, Regulation (EC) No 302/2009 was amended by Regulation (EU) No 500/2012 of the European Parliament and of the Council ⁽³⁾.
- (10) At its 18th special meeting in 2012, ICCAT adopted Recommendation 12-03 amending Recommendation 10-04. In order to strengthen the effectiveness of the recovery plan, Recommendation 12-03 set up technical measures concerning the transfer and caging operations of live bluefin tuna, new catch reporting requirements, the implementation of the ICCAT regional observer programme and changes of the fishing seasons. Furthermore, it reinforced the role of the SCRS with regard to the assessment of bluefin tuna stock.
- (11) At its 23rd regular meeting in 2013, ICCAT adopted Recommendation 13-07 amending Recommendation 12-03 by introducing small changes on fishing seasons which do not affect the Union fleet. Furthermore, Recommendation 13-08 was adopted which complements the recovery plan. Recommendation 13-08 set up a common procedure for the use of stereoscopic camera systems to estimate the quantities of bluefin tuna at the point of caging and introduced a flexible starting date for the fishing season of baitboats and trolling boats in the eastern Atlantic.
- (12) In order to implement essential measures, such as those on fishing seasons, of Recommendations 12-03 and 13-08 into Union law, Regulation (EC) No 302/2009 was further amended by Regulation (EU) No 544/2014 of the European Parliament and of the Council ⁽⁴⁾.
- (13) At its 19th special meeting in 2014, ICCAT adopted Recommendation 14-04 amending Recommendation 13-07 and repealing Recommendation 13-08. Whilst some of the existing control provisions were rationalised, the procedures for the use of stereoscopic camera at the point of caging were further specified and measures specific to release operations and the treatment of dead fish were introduced in the recovery plan.
- (14) Recommendation 14-04 is binding on the Union.
- (15) All the amendments to the recovery plan adopted by ICCAT in 2012, 2013 and 2014, which have not yet been subject to implementation, should be implemented into Union law. As that implementation concerns the recovery plan whose objectives and measures were defined by ICCAT, this Regulation does not cover all the content of multiannual plans as set out in Articles 9 and 10 of Regulation (EU) No 1380/2013.

⁽¹⁾ Council Regulation (EC) No 1559/2007 of 17 December 2007 establishing a multi-annual recovery plan for bluefin tuna in the Eastern Atlantic and Mediterranean and amending Regulation (EC) No 520/2007 (OJ L 340, 22.12.2007, p. 8).

⁽²⁾ Council Regulation (EC) No 302/2009 of 6 April 2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean, amending Regulation (EC) No 43/2009 and repealing Regulation (EC) No 1559/2007 (OJ L 96, 15.4.2009, p. 1).

⁽³⁾ Regulation (EU) No 500/2012 of the European Parliament and of the Council of 13 June 2012 amending Council Regulation (EC) No 302/2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean (OJ L 157, 16.6.2012, p. 1).

⁽⁴⁾ Regulation (EU) No 544/2014 of the European Parliament and of the Council of 15 May 2014 amending Council Regulation (EC) No 302/2009 concerning a multiannual recovery plan for Bluefin tuna in the eastern Atlantic and Mediterranean (OJ L 163, 29.5.2014, p. 7).

- (16) Regulation (EU) No 1380/2013 establishes the concept of minimum conservation reference sizes. In order to ensure consistency, the ICCAT concept of minimum sizes should be transposed into Union law as minimum conservation reference sizes. Consequently, the references in Commission Delegated Regulation (EU) 2015/98⁽¹⁾ to minimum sizes of bluefin tuna should be read as references to minimum conservation reference sizes in this Regulation.
- (17) In order to ensure uniform conditions for the implementation of the provisions of this Regulation relating to transfer operations, caging operations and recording and reporting of trap and vessel activities, 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⁽²⁾.
- (18) Certain provisions of Regulation (EC) No 302/2009 have become obsolete, in particular since they are now covered by other Union acts. Other provisions should be updated in order to reflect changes in legislation, in particular those resulting from the adoption of Regulation (EU) No 1380/2013.
- (19) In particular, Council Regulation (EC) No 1224/2009⁽³⁾ 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, and Commission Implementing Regulation (EU) No 404/2011⁽⁴⁾ lays down detailed rules for the implementation of Regulation (EC) No 1224/2009. Council Regulation (EC) No 1005/2008⁽⁵⁾ establishes a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing. Those acts now cover some matters governed by Regulation (EC) No 302/2009 and, in particular, Article 33 thereof on enforcement measures and Annex VIII on vessel monitoring system (VMS) transmission. It is therefore not necessary to include those provisions in this Regulation.
- (20) In accordance with Implementing Regulation (EU) No 404/2011, the conversion factors adopted by the SCRS apply to calculate the equivalent round weight of processed bluefin tuna, including for the purpose of this Regulation.
- (21) Moreover, in accordance with Article 95 of Regulation (EC) No 1224/2009, Commission Implementing Decision 2014/156/EU⁽⁶⁾ has been adopted. That Implementing Decision establishes, inter alia, target benchmarks and objectives for the control of the bluefin tuna fishery in the eastern Atlantic and the Mediterranean.
- (22) ICCAT Recommendation 06-07 set up a sampling programme for the estimation of the number-at-size in the context of bluefin tuna farming activities. That provision was implemented by Article 10 of Regulation (EC) No 302/2009. It is not necessary that this Regulation specifically provides for the sampling programme, as the needs of that sampling programme are now fully covered by the programmes set up by paragraph 83 of Recommendation 14-04, which is to be implemented by this Regulation.
- (23) For reasons of clarity, simplification and legal certainty, Regulation (EC) No 302/2009 should therefore be repealed.

(1) 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).

(2) 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).

(3) 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).

(4) 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).

(5) 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).

(6) Commission Implementing Decision 2014/156/EU of 19 March 2014 establishing a specific control and inspection programme for fisheries exploiting stocks of bluefin tuna in the Eastern Atlantic and the Mediterranean, swordfish in the Mediterranean and for fisheries exploiting stocks of sardine and anchovy in the Northern Adriatic Sea (OJ L 85, 21.3.2014, p. 15).

- (24) For the purpose of the Union's compliance with its international obligations under the Convention, Delegated Regulation (EU) 2015/98 provides for derogations from the landing obligation for bluefin tuna set out in Article 15 of Regulation (EU) No 1380/2013. Delegated Regulation (EU) 2015/98 implements certain provisions of ICCAT Recommendation 13-07 that establish a discard and release obligation for vessels and traps catching bluefin tuna in the eastern Atlantic and the Mediterranean in certain cases. This Regulation therefore does not need to cover such discard and release obligations and will consequently be without prejudice to the corresponding provisions of Delegated Regulation (EU) 2015/98,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation lays down the general rules for the application by the Union of the recovery plan as defined in point (1) of Article 3.
2. This Regulation applies to bluefin tuna (*Thunnus thynnus*) in the eastern Atlantic and the Mediterranean.

Article 2

Objective

The objective of this Regulation, in accordance with the recovery plan as defined in point (1) of Article 3, is to achieve a biomass of bluefin tuna corresponding to the maximum sustainable yield by 2022 with at least a 60 % probability of achieving that objective.

Article 3

Definitions

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

- (1) 'recovery plan' means the multiannual recovery plan for bluefin tuna, which applies from 2007 to 2022 and was recommended by ICCAT;
- (2) 'fishing vessel' means any powered vessel used or intended for use for the purposes of the commercial exploitation of bluefin tuna resources, including catching vessels, processing vessels, support vessels, towing vessels, vessels engaged in transshipment and transport vessels equipped for the transportation of tuna products and auxiliary vessels, except container vessels;
- (3) 'catching vessel' means a vessel used for the purposes of the commercial capture of bluefin tuna resources;
- (4) 'processing vessel' means a vessel on board of which fisheries products are subject to one or more of the following operations, prior to their packaging: filleting or slicing, freezing and/or processing;
- (5) 'auxiliary vessel' means any vessel used to transport dead bluefin tuna (not processed) from a transport/farming cage, a purse seine net or a trap to a designated port and/or to a processing vessel;
- (6) 'towing vessel' means any vessel used for towing cages;
- (7) 'support vessel' means any other fishing vessel referred to under point (2);
- (8) 'fishing actively' means, for any catching vessel and trap, the fact that it targets bluefin tuna during a given fishing season;

- (9) 'joint fishing operation' means any operation between two or more purse seiners where the catch of one purse seiner is attributed to one or more other purse seiners in accordance with an allocation key;
- (10) 'transfer operations' means:
- (i) any transfer of live bluefin tuna from the catching vessel's net to the transport cage;
 - (ii) any transfer of live bluefin tuna from the transport cage to another transport cage;
 - (iii) any transfer of the cage with bluefin tuna from a towing vessel to another towing vessel;
 - (iv) any transfer of live bluefin tuna from one farm to another;
 - (v) any transfer of live bluefin tuna from the trap to the transport cage;
- (11) 'control transfer' means any additional transfer being implemented at the request of the fishing/farming operators or the control authorities for the purpose of verifying the number of fish being transferred;
- (12) 'trap' means fixed gear anchored to the bottom, usually containing a guide net that leads bluefin tuna into an enclosure or series of enclosures where it is kept prior to harvesting;
- (13) 'caging' means the transfer of live bluefin tuna from the transport cage or trap to the farming cages;
- (14) 'farming' means caging of bluefin tuna in farms and subsequent feeding aiming to fatten and increase their total biomass;
- (15) 'farm' means an installation used for the farming of bluefin tuna caught by traps and/or purse seiners;
- (16) 'harvesting' means the killing of bluefin tuna in farms or traps;
- (17) 'transshipment' means the unloading of all or any of the fish on board a fishing vessel to another fishing vessel. Unloading of dead bluefin tuna from the purse seiner net or the towing vessel to an auxiliary vessel shall not be considered as a transshipment;
- (18) 'sport fishery' means non-commercial fisheries whose members adhere to a national sport organisation or are issued with a national sport licence;
- (19) 'recreational fishery' means non-commercial fisheries whose members do not adhere to a national sport organisation and are not issued with a national sport licence;
- (20) 'stereoscopic camera' means a camera with two or more lenses, with a separate image sensor or film frame for each lens, enabling the taking of three-dimensional images;
- (21) 'control camera' means a stereoscopic camera and/or conventional video camera for the purpose of the controls provided for in this Regulation;
- (22) 'BCD' or 'electronic BCD' means a bluefin catch document for bluefin tuna. As appropriate, the reference to BCD shall be replaced by eBCD;
- (23) 'responsible Member State' or 'Member State responsible' means the flag Member State or the Member State in whose jurisdiction the trap or farm is located or, if the farm or trap is located on the high seas, the Member State where the trap or farm operator is established;
- (24) 'Task II' means Task II as defined by ICCAT in the 'Field manual for statistics and sampling Atlantic tunas and tuna-like fish' (third edition, ICCAT, 1990);
- (25) 'CPC' means Contracting Parties to the Convention and cooperating non-contracting parties, entities or fishing entities;
- (26) 'Convention area' means the geographical area covered by ICCAT measures as set out in Article 1 of the Convention.

*Article 4***Length of vessels**

Lengths of vessels referred to in this Regulation shall be understood as overall lengths.

CHAPTER II

MANAGEMENT MEASURES*Article 5***Conditions associated with management measures**

1. Each Member State shall take the necessary measures to ensure that the fishing effort of its catching vessels and its traps are commensurate with the bluefin tuna fishing opportunities available to that Member State in the eastern Atlantic and the Mediterranean.
2. The carrying-over of any unused quota shall be prohibited.
3. The chartering of Union fishing vessels for bluefin tuna fishing in the eastern Atlantic and the Mediterranean shall be prohibited.

*Article 6***Submission of annual fishing plans, fishing capacity management plans and farming management plans**

1. By 31 January each year, each Member State with a bluefin tuna quota shall transmit to the Commission:
 - (a) an annual fishing plan for the catching vessels and traps fishing bluefin tuna in the eastern Atlantic and the Mediterranean;
 - (b) an annual fishing capacity management plan ensuring that the Member State's fishing capacity is commensurate with its allocated quota.
2. The Commission shall compile the plans referred to in paragraph 1 and integrate them into the Union fishing and capacity management plan. The Commission shall transmit that plan to the ICCAT Secretariat by 15 February of each year for discussion and approval by ICCAT.
3. By 15 April of each year, each Member State that intends to modify the ICCAT plan for farming capacity in force shall transmit an annual farming management plan to the Commission, which shall transmit it to the ICCAT Secretariat.

*Article 7***Annual fishing plans**

1. The annual fishing plan submitted by each Member State with a bluefin tuna quota shall identify the quotas allocated to each gear group referred to in Articles 11 and 12, including information on:
 - (a) for catching vessels over 24 metres included in the vessel list referred to in point (a) of Article 20(1) — the individual quota allocated to them and the measures in place to ensure compliance with the individual quotas and by-catch allowances;
 - (b) for catching vessels less than 24 metres and for traps — at least the quota allocated to producer organisations or groups of vessels fishing with a similar gear type.

2. By way of derogation from point (a) of paragraph 1, the individual quota allocated to each catching vessel over 24 metres may be submitted not later than 30 days before the start of the fishing season applicable to each such vessel.
3. Any subsequent modification to the annual fishing plan or the individual quotas allocated for catching vessels over 24 metres and included in the list referred to in point (a) of Article 20(1) shall be transmitted by the Member State concerned to the Commission at least three days before the exercise of the activity corresponding to that modification. The Commission shall transmit such modification to the ICCAT Secretariat at least 48 hours before the exercise of the activity corresponding to that modification.

Article 8

Allocation of fishing opportunities

In accordance with Article 17 of Regulation (EU) No 1380/2013, when allocating the fishing opportunities 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 consideration to traditional and artisanal fisheries, and to provide incentives to Union fishing vessels deploying selective fishing gear or using fishing techniques with reduced environmental impact.

Article 9

Fishing capacity management plans

1. The annual fishing capacity management plan submitted by each Member State with a bluefin tuna quota shall comply with the conditions set out in this Article.
2. The maximum number of traps registered in a Member State and of fishing vessels flying the flag of a Member State that may fish for, retain on board, tranship, transport, or land bluefin tuna, shall be determined in accordance with the Treaty on the Functioning of the European Union ("TFEU") and Article 16 of Regulation (EU) No 1380/2013.
3. The maximum number and the corresponding gross tonnage of fishing vessels flying the flag of a Member State engaged in bluefin tuna fishery shall be limited to the number, and the total corresponding gross tonnage, of fishing vessels flying the flag of that Member State that fished for, retained on board, transhipped, transported or landed bluefin tuna from 1 January 2007 to 1 July 2008. That limit shall apply by gear type for catching vessels.
4. For vessels authorised to fish for bluefin tuna under the derogation referred to in Article 14(2), additional conditions to determine the maximum number of fishing vessels are set out in Annex I.
5. The maximum number of traps of a Member State engaged in bluefin tuna fishery shall be limited to the number of traps authorised by that Member State by 1 July 2008.
6. By way of derogation from paragraphs 3 and 5 of this Article, for the years 2016 and 2017, when a Member State can demonstrate that its fishing capacity might not allow the use of its full quota, that Member State may decide to include a higher number of vessels and traps in its annual fishing plans referred to in Article 7.
7. For the years 2016 and 2017, each Member State shall limit the numbers of its purse seiners to the numbers of purse seiners it authorised in 2013 or 2014. That shall not apply to purse seiners operating under the derogation provided for in point (b) of Article 14(2).
8. When setting up its fishing capacity management plans, calculation of the fishing capacity of each Member State shall be based on the best catch rates per vessel and gear estimated by the SCRS in its Report of 2009 and agreed by ICCAT in the 2010 Inter-sessional meeting of the ICCAT Compliance Committee ⁽¹⁾. Following any revisions of those catch rates by the SCRS, Member States shall always apply the most recent catch rates agreed by the ICCAT.

⁽¹⁾ Report of the Inter-sessional meeting of the Compliance Committee (Madrid, Spain, 24 to 26 February 2010), point 5 and Appendix 3 to Annex 4.2.

*Article 10***Farming management plans**

1. The annual farming management plan submitted by each Member State shall comply with the conditions set out in this Article.
2. The maximum bluefin tuna farming and fattening capacity for each Member State and the maximum input of wild-caught bluefin tuna that each Member State may allocate shall be determined in accordance with the TFEU and Article 16 of Regulation (EU) No 1380/2013.
3. The maximum bluefin tuna farming and fattening capacity of a Member State shall be limited to the bluefin tuna farming and fattening capacity of the farms of that Member State that were registered in the ICCAT record of farming facilities or authorised and declared to ICCAT on 1 July 2008.
4. The maximum input of wild-caught bluefin tuna into the farms of a Member State shall be limited to the level of the input quantities registered with ICCAT by the farms of that Member State in the years 2005, 2006, 2007 or 2008.
5. Within the maximum input quantity of wild-caught bluefin tuna referred to in paragraph 4, each Member State shall allocate maximum annual inputs to its farms.

CHAPTER III

TECHNICAL MEASURES

SECTION 1

Fishing seasons*Article 11***Longliners, purse seiners, pelagic trawlers, traps and sport and recreational fisheries**

1. Bluefin tuna fishing by large-scale pelagic longline catching vessels over 24 metres shall be permitted in the eastern Atlantic and the Mediterranean from 1 January to 31 May, with the exception of the area delimited by west of 10° W and north of 42° N as well as of the Norwegian exclusive economic zone, where such fishing shall be permitted from 1 August to 31 January.
2. Purse seine fishing for bluefin tuna shall be permitted in the eastern Atlantic and the Mediterranean from 26 May to 24 June, with the exception of the Norwegian exclusive economic zone, where such fishing shall be permitted from 25 June to 31 October.
3. Bluefin tuna fishing by pelagic trawlers shall be permitted in the eastern Atlantic from 16 June to 14 October.
4. Bluefin tuna sport and recreational fishing shall be permitted in the eastern Atlantic and the Mediterranean from 16 June to 14 October.
5. Fishing for bluefin tuna by gears other than those referred to in paragraphs 1 to 4 of this Article and Article 12, including traps, shall be permitted throughout the year in accordance with ICCAT conservation and management measures.

*Article 12***Baitboats and trolling boats**

1. Bluefin tuna fishing by baitboats and trolling boats shall be permitted in the eastern Atlantic and the Mediterranean from 1 July to 31 October.

2. Provided that the protection of the spawning grounds is not affected and that the total duration of the fishing season for those fisheries does not exceed four months, each Member State may decide on a different starting date for baitboats and trolling boats flying their flag and operating in the eastern Atlantic.

3. Each Member State shall specify, in its annual fishing plan referred to in Article 7, whether the starting dates for those fisheries have been modified, as well as the coordinates of the areas concerned.

SECTION 2

Minimum conservation reference size, incidental catch, by-catch

Article 13

The landing obligation

The provisions of this Section shall be without prejudice to Article 15 of Regulation (EU) No 1380/2013, including any applicable derogations thereto.

Article 14

Minimum conservation reference size

1. The minimum conservation reference size for bluefin tuna caught in the eastern Atlantic and the Mediterranean shall be 30 kg or 115 cm fork length.

2. By way of derogation from paragraph 1, a minimum conservation reference size for bluefin tuna of 8 kg or 75 cm fork length shall apply to the following fisheries:

- (a) bluefin tuna caught in the eastern Atlantic by baitboats and trolling boats;
- (b) bluefin tuna caught in the Adriatic Sea for farming purposes;
- (c) bluefin tuna caught in the Mediterranean Sea by the coastal and artisanal fishery for fresh fish by baitboats, longliners and handliners.

3. The specific conditions applying to the derogation referred to in paragraph 2 are set out in Annex I.

4. Member States concerned shall issue specific authorisations to vessels fishing under the derogation referred to in paragraph 2 of this Article. The vessels concerned shall be indicated in the list of catching vessels referred to in point (a) of Article 20(1). For that purpose, the provisions laid down in Articles 20 and 21 shall apply.

Article 15

Incidental catches

1. Without prejudice to Article 14(1), incidental catches of a maximum 5 % of bluefin tuna weighing between 8 and 30 kg or with a fork length between 75 and 115 cm shall be allowed for all catching vessels and traps fishing actively for bluefin tuna.

2. The percentage of 5 % referred to in paragraph 1 shall be calculated on the basis of the total catches of bluefin tuna in number of fish retained on board the vessel or inside the trap at any time after each fishing operation.

3. Incidental catches shall be deducted from the quota of the Member State responsible for the catching vessel or trap.

4. Incidental catches of bluefin tuna shall be subject to Articles 25, 30, 31 and 32.

Article 16

By-catch

1. Each Member State shall make provision for by-catch of bluefin tuna within its quota and shall inform the Commission thereof when transmitting its fishing plan. Such provision shall ensure that all dead fish are deducted from the quota.
2. Union fishing vessels not fishing actively for bluefin tuna shall avoid by-catches of bluefin tuna exceeding, at any time following a fishing operation, 5 % of the total catch on board by weight or number of fish. The calculation of that percentage by number of fish shall only apply to tuna and tuna-like species managed by ICCAT. Each Member State shall deduct all dead fish within the by-catch from its quota.
3. For Member States without a bluefin tuna quota, the by-catches concerned shall be deducted from the specific Union bluefin tuna by-catch quota established in accordance with the TFEU and Article 16 of Regulation (EU) No 1380/2013.
4. If the quota allocated to the Member State of the fishing vessel or trap concerned has already been exhausted, the catching of any bluefin tuna shall be avoided. Dead bluefin tuna shall be landed whole and unprocessed and shall be subject to confiscation and the appropriate follow-up action. In accordance with Article 29, each Member State shall provide information on the quantity of such dead bluefin tuna on an annual basis to the Commission who shall forward it to the ICCAT Secretariat.
5. The procedures referred to in Articles 27, 30, 31, 32 and 56 shall apply to by-catch.

SECTION 3

Use of aerial means

Article 17

Use of aerial means

The use of any aerial means, including aircraft, helicopters or any types of unmanned aerial vehicles for searching for bluefin tuna shall be prohibited.

CHAPTER IV

SPORT AND RECREATIONAL FISHERIES

Article 18

Specific quota for sport and recreational fisheries

Each Member State with a bluefin tuna quota shall regulate sport and recreational fisheries by allocating a specific quota for the purpose of those fisheries and shall inform the Commission thereof when transmitting its fishing plan.

Article 19

Sport and recreational fisheries

1. Each Member State with a bluefin tuna quota shall regulate sport and recreational fisheries by issuing fishing authorisations to vessels for the purpose of sport and recreational fishing.

2. For sport and recreational fisheries no more than one bluefin tuna shall be caught per vessel per day.
3. Any bluefin tuna landed shall be whole, gilled and/or gutted. Each Member State shall take the necessary measures to ensure, to the greatest extent possible, the release of bluefin tuna, especially juveniles, caught alive in the framework of sport and recreational fishing.
4. The marketing of bluefin tuna caught during sport and recreational fishing shall be prohibited.
5. Each Member State shall record catch data including weight and length of each bluefin tuna caught during sport and recreational fishing and communicate the data for the preceding year to the Commission by 30 June each year. The Commission shall forward that information to the SCRS.
6. Each Member State shall count dead catches from sport and recreational fisheries against the quota it allocated in accordance with Article 7(1) and Article 18.

CHAPTER V

CONTROL MEASURES

SECTION 1

Records of vessels and traps

Article 20

Records of vessels

1. Each Member State shall submit electronically each year to the Commission one month before the start of the fishing seasons referred to in Articles 11 and 12, where applicable, and otherwise one month before the start of the period of authorisation:
 - (a) a list of all catching vessels flying its flag authorised to fish actively for bluefin tuna in the eastern Atlantic and the Mediterranean by the issuing of a fishing authorisation;
 - (b) a list of all other fishing vessels, other than catching vessels, flying its flag authorised to operate for bluefin tuna in the eastern Atlantic and the Mediterranean.
2. Both lists shall be set up in accordance with the format set in the Guidelines by ICCAT for submitting the data and information required.
3. During a calendar year, a fishing vessel may be included in both of the lists referred to in paragraph 1 provided that it is not included in both lists at the same time.
4. The lists referred to in paragraph 1 of this Article shall contain the vessel's name and Union fleet register number (CFR) as defined in Annex I to Commission Regulation (EC) No 26/2004 ⁽¹⁾.
5. No retroactive submission shall be accepted. Subsequent changes to the lists referred to in paragraph 1 during a calendar year shall only be accepted if the notified fishing vessel is prevented from participating due to legitimate operational reasons or *force majeure*. In such circumstances, the Member State concerned shall immediately inform the Commission of that fact, and shall provide:
 - (a) full details of the fishing vessel(s) intended to replace a vessel included in the lists referred to in paragraph 1; and
 - (b) a comprehensive account of the reasons justifying the replacement and any relevant supporting evidence or references.

⁽¹⁾ Commission Regulation (EC) No 26/2004 of 30 December 2003 on the Community fishing fleet register (OJ L 5, 9.1.2004, p. 25).

6. The Commission shall send the information referred to in paragraphs 1 and 2 to the ICCAT Secretariat so that the vessels can be entered into the ICCAT record of catching vessels authorised to fish actively for bluefin tuna or in the ICCAT record of all other fishing vessels (catching vessels excluded) authorised to operate for bluefin tuna.

7. Article 8a(2), (6), (7) and (8) of Council Regulation (EC) No 1936/2001 ⁽¹⁾ shall apply with the necessary modifications.

Article 21

Relationship with Regulation (EC) No 1224/2009

The control measures provided for in this Chapter shall apply in addition to those provided for in Regulation (EC) No 1224/2009, except where otherwise provided for in this Chapter.

Article 22

Fishing authorisations for vessels

1. Without prejudice to Article 16, Union fishing vessels not entered into the ICCAT records referred to in Article 20(1) shall not be authorised to fish for, retain on board, tranship, transport, transfer, process or land bluefin tuna in the eastern Atlantic and the Mediterranean.

2. The flag Member State shall withdraw the fishing authorisation for bluefin tuna and may require the vessel to proceed immediately to a port designated by it when the individual quota is deemed to be exhausted.

Article 23

Records of traps authorised to fish for bluefin tuna

1. By 15 February each year, each Member State shall send to the Commission electronically a list of its traps authorised, by the issuing of a fishing authorisation, to fish for bluefin tuna in the eastern Atlantic and the Mediterranean. The list shall include the name of the traps and the register number and shall be set up in accordance with the format set in the Guidelines by ICCAT for submitting data and information required.

2. The Commission shall send the list to the ICCAT Secretariat so that those traps can be entered into the ICCAT record of traps authorised to fish for bluefin tuna.

3. Union traps that are not entered into the ICCAT record shall not be authorised to fish for, retain, transfer, cage or land bluefin tuna in the eastern Atlantic and the Mediterranean.

4. Article 8a(2), (4), (6), (7) and (8) of Regulation (EC) No 1936/2001 shall apply with the necessary modifications.

Article 24

Joint fishing operation

1. Any joint fishing operation ('JFO') for bluefin tuna shall only be authorised with the consent of the flag Member State(s) concerned. To be authorised, each purse seiner shall be equipped to fish for bluefin tuna and have an individual quota. JFOs with other CPCs shall not be permitted.

⁽¹⁾ 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).

2. Each Member State shall take the necessary measures to obtain the following information from its fishing vessels applying for an authorisation to take part in the JFO:

- (a) the duration;
- (b) the identity of the operators involved;
- (c) the individual vessels' quotas;
- (d) the allocation key between the fishing vessels for the catches involved; and
- (e) information on the farms of destination.

3. At least 15 days before the start of the operation, each Member State shall send the information referred to in paragraph 2 to the Commission in the format set out in Annex VI. The Commission shall forward that information to the ICCAT Secretariat and to the flag State of other fishing vessels participating in the JFO at least 10 days before the start of the operation.

4. In the case of *force majeure*, the deadline set out in paragraph 3 shall not apply for the information requested under point (e) of paragraph 2. In that case, Member States may submit to the Commission an update of that information as soon as possible, together with a description of the events constituting *force majeure*. The Commission shall forward that information to the ICCAT Secretariat.

SECTION 2

Catches

Article 25

Recording requirements

1. In addition to complying with Articles 14, 15, 23 and 24 of Regulation (EC) No 1224/2009, the master of a Union catching vessel shall, if applicable, enter into the logbook the information listed in Part A of Annex II to this Regulation.
2. Masters of Union towing vessels, auxiliary vessels and processing vessels shall record their activities in accordance with the requirements set out in Parts B, C and D of Annex II.

Article 26

Catch reports sent by masters and trap operators

1. Masters of catching vessels fishing actively for bluefin tuna shall send to the authorities of the flag Member State daily information from logbooks, including the ICCAT register number, the vessel name, the beginning and end of the period of authorisation, date, time, location (latitude and longitude) and the weight and number of bluefin tuna caught in the Convention area. They shall send that information electronically in the format set out in Annex V during the whole period in which the vessel is authorised to fish bluefin tuna.
2. Masters of purse seiners shall produce daily reports as referred to in paragraph 1 on a fishing operation by fishing operation basis, including operations where the catch was zero.
3. The reports referred to in paragraphs 1 and 2 shall be transmitted by the operator to its flag Member State authorities on a daily basis for purse seiners and vessels over 24 metres by 9.00 GMT for the preceding day and for other catching vessels by Monday 24.00 (midnight) for the preceding week ending Sunday 24.00 (midnight) GMT.

4. Trap operators fishing actively for bluefin tuna shall send a daily catch report including the ICCAT register number, date, time, catches (weight and number of fish), including zero catches. They shall send that information within 48 hours electronically in the format set out in Annex V to their Member State authorities during the whole period they are authorised to fish bluefin tuna.

5. The Commission may adopt implementing acts laying down detailed rules for the recording and reporting of vessel and trap activities referred to in paragraphs 1 to 4 of this Article and Annex V. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(2).

Article 27

Weekly and monthly catch reports sent by the Member States

1. Each Member State shall, upon receipt of the catch reports referred to in Article 26, promptly forward them electronically to the Commission and shall provide promptly to the Commission weekly catch reports for all catching vessels and traps in accordance with the format set out in Annex V. The Commission shall forward that information on a weekly basis to the ICCAT Secretariat in accordance with the format set out in the Guidelines for submitting data and information required by ICCAT.

2. Each Member State shall inform the Commission, before the 15th day of each month, of the quantities of bluefin tuna caught in the eastern Atlantic and the Mediterranean which have been landed, transhipped, trapped or caged during the preceding month by the fishing vessels or traps flying the flag of or registered in that Member State. The information provided shall be structured by gear type including by-catch, catches in sport and recreational fisheries and zero catches. The Commission shall promptly forward that information to the ICCAT Secretariat.

Article 28

Information on quota exhaustion

1. In addition to the provisions of Article 34 of Regulation (EC) No 1224/2009, each Member State shall inform the Commission when the quota allocated to a gear group referred to in Article 11 or Article 12 of this Regulation is deemed to have reached 80 %.

2. In addition to the provisions of Article 35 of Regulation (EC) No 1224/2009, each Member State shall inform the Commission when the quota allocated to a gear group referred to in Article 11 or Article 12 of this Regulation or to a JFO or to a purse seiner is deemed to be exhausted.

3. The information referred to in paragraph 2 shall be accompanied by official documentation proving the fishing stop or the call back to port issued by the Member State for the fleet, the gear group, the JFO, or the vessels with an individual quota including a clear indication of the date and the time of the closure.

Article 29

Yearly reporting of catches by the Member States

1. By 15 March each year, each Member State shall submit to the Commission detailed information on any bluefin tuna catches in the eastern Atlantic and the Mediterranean in the preceding fishing year. That information shall include:

- (a) the name and ICCAT number of each catching vessel;
- (b) the period of authorisation(s) for each catching vessel;
- (c) the total catches of each catching vessel including when the catch was zero throughout the period of authorisation(s);

- (d) the total number of days each catching vessel fished in the eastern Atlantic and the Mediterranean throughout the period of authorisation(s); and
 - (e) the total catch of each catching vessel outside the period of authorisation (by-catch), including when the catch was zero.
2. For vessels not authorised to fish actively for bluefin tuna in the eastern Atlantic and the Mediterranean but which caught bluefin tuna as by-catch, the information to be submitted to the Commission at the same date as referred to in paragraph 1 shall include:
- (a) the name and ICCAT number or national registry number of the vessel, if not registered with ICCAT; and
 - (b) the total catches of bluefin tuna.
3. Each Member State shall notify to the Commission any information on vessels not subject to paragraphs 1 and 2 but known or presumed to have fished for bluefin tuna in the eastern Atlantic and the Mediterranean.
4. The Commission shall transmit to the ICCAT Secretariat the information received under paragraphs 1, 2 and 3.

SECTION 3

Landings and transshipments

Article 30

Designated ports

1. Each Member State shall designate ports or places close to the shore (designated ports) where landing or transshipping operations of bluefin tuna are permitted.
2. For a port to be determined as a designated port, the port Member State shall specify permitted landing and transshipping times and places.
3. By 15 February of each year, each Member State shall transmit a list of designated ports to the Commission which shall transmit that information to the ICCAT Secretariat.
4. It shall be prohibited to land or tranship from fishing vessels any quantity of bluefin tuna fished in the eastern Atlantic and the Mediterranean at any place other than ports or places close to the shore designated by CPCs and Member States in accordance with paragraphs 1 and 2.

Article 31

Landings

1. Article 17 of Regulation (EC) No 1224/2009 shall apply to masters of Union fishing vessels of 12 metres' length overall or more included in the list of vessels referred to in Article 20 of this Regulation. The prior arrival notification under Article 17 of Regulation (EC) No 1224/2009 shall be sent to the competent authority of the Member State (including the flag Member State) or CPC whose ports or landing facility they wish to use.
2. In addition, masters of Union fishing vessels under 12 metres' length overall included in the list of vessels referred to in Article 20 shall, at least four hours before the estimated time of arrival at the port, notify the competent authority of the Member State (including the flag Member State) or the CPC whose ports or landing facility they wish to use, at least of the following:
 - (a) estimated time of arrival;
 - (b) estimated quantity of bluefin tuna retained on board; and
 - (c) information on the geographical area where the catches were taken.

3. Where Member States are authorised under applicable Union legislation to apply a shorter notification period than that referred to in paragraphs 1 and 2, the estimated quantities of bluefin tuna retained on board may be notified at the thus applicable time of notification prior to arrival. If the fishing grounds are less than four hours from the port, the estimated quantities of bluefin tuna retained on board may be modified at any time prior to arrival.
4. Authorities of the port Member State shall keep a record of all prior notifications for the current year.
5. All landings shall be controlled, in accordance with Article 55(2), by the relevant control authorities of the port Member State and a percentage shall be inspected based on a risk assessment system involving quota, fleet size and fishing effort. Full details of such control system adopted by each Member State shall be detailed in the annual inspection plan referred to in Article 53. That control system shall also apply to harvest operations.
6. In addition to Article 23(1) of Regulation (EC) No 1224/2009, after each trip, masters of a Union catching vessel, whatever the length of the vessel, shall submit a landing declaration to the competent authorities of the flag Member State and, if the landing has taken place in a port of another Member State or CPC, to the competent authorities of the port Member State or CPC concerned.
7. All landed catches shall be weighed.

Article 32

Transshipment

1. Transshipment at sea of bluefin tuna in the Convention area shall be prohibited in all circumstances.
2. Fishing vessels shall only tranship bluefin tuna catches in designated ports under the conditions set out in Article 30.
3. The port Member State shall ensure full inspection coverage during all transshipping times and at all transshipping places.
4. Prior to entry into any port, the masters or representatives of the receiving fishing vessels shall, at least 48 hours before the estimated time of arrival, provide the competent authorities of the Member State or CPC whose port they want to use with the following:
 - (a) estimated date and time of arrival, and port of arrival;
 - (b) estimated quantity of bluefin tuna retained on board, and information on the geographical area where it was taken;
 - (c) the name of the transshipping fishing vessel and its number in the ICCAT record of catching vessels authorised to fish actively for bluefin tuna or in the ICCAT record of other fishing vessels authorised to operate for bluefin tuna in the eastern Atlantic and the Mediterranean;
 - (d) the name of the receiving fishing vessel, its number in the ICCAT record of catching vessels authorised to fish actively for bluefin tuna or in the ICCAT record of other fishing vessels authorised to operate for bluefin tuna in the eastern Atlantic and the Mediterranean; and
 - (e) the tonnage and the geographical area of the catch of bluefin tuna to be transhipped.
5. Fishing vessels shall not be allowed to tranship unless they have obtained prior authorisation from their flag State.
6. Masters of transshipping fishing vessels shall, before the transshipment starts, inform their flag State of the following:
 - (a) the quantities of bluefin tuna to be transhipped;
 - (b) the date and port of the transshipment;

- (c) the name, registration number and flag of the receiving fishing vessel and its number in the ICCAT record of catching vessels authorised to fish actively for bluefin tuna or in the ICCAT record of other fishing vessels authorised to operate for bluefin tuna in the eastern Atlantic and the Mediterranean; and
 - (d) the geographical area of the catch of bluefin tuna.
7. All transshipments shall be inspected by the competent Member State authorities at the designated port. Those authorities shall:
- (a) inspect the receiving fishing vessel on arrival and check the cargo and documentation related to the transshipment operation;
 - (b) send a record of the transshipment to the flag State authority of the transshipping fishing vessel, within five days after the transshipment has ended.
8. By way of derogation from Articles 21 and 22 of Regulation (EC) No 1224/2009, masters of a Union fishing vessel shall, whatever the length of the vessel, complete and send the ICCAT transshipment declaration to the competent authorities of the Member State whose flag the fishing vessel is flying. The declaration shall be transmitted no later than 48 hours after the date of transshipment in port in accordance with the format set out in Annex III to this Regulation.

SECTION 4

Transfer operations

Article 33

Transfer authorisation

1. Before any transfer operation, the master of a catching vessel or towing vessel or the operator of the farm or trap where the transfer in question originates shall send to the competent authorities of the relevant Member State a prior notification of transfer indicating:
- (a) the name of the catching vessel, towing vessel, farm or trap and the ICCAT register number;
 - (b) the estimated time of transfer;
 - (c) the estimate of the quantity of bluefin tuna to be transferred;
 - (d) information on the position (latitude/longitude) where the transfer will take place as well as the identifiable cage numbers;
 - (e) the name of the receiving towing vessel, the number of cages towed and, where appropriate, the ICCAT register number;
 - (f) the port, farm or cage of destination of the bluefin tuna.
2. For the purpose referred to in paragraph 1, a unique cage number shall be assigned to each cage. Numbers shall be issued with a unique numbering system that includes at least three alpha-code letters corresponding to the flag of the towing vessel followed by three numbers.
3. Catching vessels, towing vessels, farms or traps shall not be allowed to transfer unless they have obtained prior authorisation from the relevant Member State. The authorities of that Member State shall decide for each transfer operation whether to grant authorisation. For that purpose, a unique identification number shall, for each transfer operation, be assigned and communicated to the master of the fishing vessel, the trap operator or the farm operator, as appropriate. Where authorisation is granted, that number shall comprise the three-letter code of the Member State, the four numbers indicating the year, and the three letters 'AUT' (authorisation), followed by sequential numbers. Where authorisation is refused, the number shall comprise the three-letter code of the Member State, the four numbers indicating the year, and the three letters 'NEG' (non-authorisation), followed by sequential numbers.

4. In the event that fish die during the transfer operation, the relevant Member States and operators involved in the transfer shall proceed in accordance with Annex XII.
5. The transfer authorisation shall be granted or refused by the Member State responsible for the catching vessel, towing vessel, farm or trap, as appropriate, within 48 hours following the submission of the prior notification of transfer.
6. The authorisation for transfer by the relevant Member State shall not prejudice the authorisation of the caging operation.

Article 34

Refusal of transfer authorisation

1. The Member State responsible for the vessel, trap or farm shall not authorise the transfer if, on receipt of the prior notification of transfer, it considers that:
 - (a) the catching vessel or the trap that is declared to have caught the fish does not have sufficient quota;
 - (b) the quantity of fish has not been duly reported by the catching vessel or the trap operator or has not been authorised to be caged, or has not been taken into account for the consumption of the quota that may be applicable;
 - (c) the catching vessel or trap that is declared to have caught the fish is not authorised to fish for bluefin tuna; or
 - (d) the towing vessel declared to be the one to receive the transfer of fish is not registered in the ICCAT record of all other fishing vessels (catching vessels excluded) authorised to operate for bluefin tuna, as referred to in point (b) of Article 20(1), or is not equipped with a VMS.
2. If the transfer is not authorised:
 - (a) the Member State responsible for the catching vessel or trap shall issue a release order to the master of the catching vessel or to the operator of the trap or farm as appropriate and inform them that the transfer is not authorised and that the fish have to be released into the sea;
 - (b) the master of the catching vessel, the farm operator or the trap operator, as appropriate, shall release the fish;
 - (c) the release of bluefin tuna shall be carried out in accordance with the procedures set out in Annex XI.

Article 35

Monitoring by video camera

1. For transfer operations, the master of the catching vessel, towing vessel, farm operator or trap operator that transfers bluefin tuna shall ensure that the transfer operations are monitored by video camera in the water in order to verify the number of fish being transferred. The minimum standards and procedures for video recording shall be in accordance with Annex IX.
2. Each Member State responsible for the vessel, trap or farm shall ensure that the video records referred to in paragraph 1 are made available to the ICCAT inspectors and regional observers.
3. Each Member State responsible for the vessel, trap or farm shall ensure that the video records referred to in paragraph 1 are made available to Union inspectors and national observers.
4. Each Member State responsible for the vessel, trap or farm shall take the necessary measures to avoid any replacement, editing or manipulation of the original video record.

*Article 36***Verification by ICCAT regional observers and launching and conduct of investigation**

1. ICCAT regional observers on board the catching vessel or present at a trap, as set out in Article 51 and Annex VII, shall record and report on the transfer operations carried out, observe and estimate catches transferred and verify entries made in the prior transfer authorisation referred to in Article 33 and in the ICCAT transfer declaration referred to in Article 38.
2. In cases where there is more than 10 % difference by number between the estimates of catch made by the ICCAT regional observer, relevant control authorities and/or the master of the catching vessel, or representative of the trap, or where the video record is of insufficient quality or clarity to make such estimations, the Member State responsible for the catching vessel, farm or trap shall launch an investigation which shall be concluded prior to the time of caging at the farm or in any case within 96 hours after being launched. Pending the results of that investigation, caging shall not be authorised and the catch section of the bluefin tuna catch document ('BCD') shall not be validated.
3. However, when the video record is of insufficient quality or clarity to estimate the number, the operator may request authorisation from the flag State authorities of the vessel, trap or farm to conduct a new transfer operation and to provide the corresponding video record to the ICCAT regional observer.
4. Without prejudice to the verifications conducted by an inspector, ICCAT regional observers shall sign the ICCAT transfer declaration only when their observations are in accordance with the ICCAT conservation and management measures and when the information contained in the transfer declaration is consistent with their observations including a compliant video record as required under Article 35(1). They shall sign that declaration with clearly written name and ICCAT number.
5. ICCAT regional observers shall also verify that the ICCAT transfer declaration is transmitted to the master of the towing vessel or to the farm or trap representative.

*Article 37***Measures to estimate the number and weight of bluefin tuna to be caged**

Member States shall take the necessary measures and actions to further explore methodologies to improve the estimate of both the number and weight of bluefin tuna at the point of capture and caging. Each Member State shall report on the measures taken by 22 August of each year to the Commission who shall submit those reports to the SCRS.

*Article 38***Transfer declaration**

1. Masters of catching or towing vessels, trap operators or farm operators shall, at the end of the transfer operation, complete and transmit to the competent authorities of their Member State the ICCAT transfer declaration, in accordance with the format set out in Annex IV.
2. Transfer declaration forms shall be numbered by the competent authorities of the Member State responsible for the vessels, farms or traps from which the transfers originate. The numbering system shall include the three-letter code of the Member State, followed by the four numbers indicating the year and three sequential numbers followed by the three letters 'ITD' (MS-20**/xxx/ITD).
3. The original transfer declaration shall accompany the transfer of the fish. A copy of the declaration shall be kept by the master of the catching vessel, the trap operator, the master of the towing vessel or the farm operator.
4. Masters of vessels carrying out transfer operations (including towing vessels) shall report their activities in accordance with the requirements set out in Annex II.

*Article 39***Implementing acts**

The Commission may adopt implementing acts laying down detailed rules for transfer operations referred to in Articles 33 to 38 and the Annexes referred to in those Articles. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(2).

SECTION 5

Caging operations*Article 40***Caging authorisation**

1. Prior to the start of each caging operation the anchoring of transport cages within 0,5 nautical miles of farming facilities shall be prohibited.
2. Before any caging operation, the competent authority of the Member State responsible for the farm shall inform the Member State or CPC responsible for the catching vessel or trap of the quantities caught by that vessel or trap and request a caging authorisation.
3. The caging operation shall not begin without the prior authorisation by:
 - (a) the Member State or CPC responsible for the catching vessel or trap; or
 - (b) the Member State or CPC responsible for the farm if it has been agreed among the Member States involved or with the flag CPC involved.
4. The caging authorisation shall be granted or refused by the Member State or CPC responsible for the catching vessel, trap or, if applicable, farm, within one working day following the request and the submission of the information referred to in paragraph 2. If no response is received within one working day from the Member State or CPC responsible for the catching vessel or trap, the Member State or CPC responsible for the farm may authorise the caging.
5. Bluefin tuna shall be caged before 15 August, unless the Member State or CPC responsible for the farm receiving the fish provides duly justified reasons. Such reasons shall be submitted with the caging report.

*Article 41***Refusal of caging authorisation**

1. The Member State responsible for the catching vessel, trap or, if applicable, farm, shall refuse the caging authorisation if it considers, on receipt of the information referred to in Article 40(2), that:
 - (a) the catching vessel or trap that is declared to have caught the fish did not have sufficient quota for the bluefin tuna that were put into the cage;
 - (b) the quantity of fish has not been duly reported by the catching vessel or trap or has not been taken into account for the calculation of the quota applicable; or
 - (c) the catching vessel or trap that is declared to have caught the fish is not authorised to fish for bluefin tuna.

2. If the caging is not authorised, the Member State or CPC responsible for the catching vessel shall request the Member State or CPC responsible for the farm to seize the catches and to release the fish by issuing a release order.
3. Upon receipt of the release order, the farm operator shall proceed with the releases in accordance with Annex XI.

Article 42

Bluefin tuna catch documentation

Member States responsible for farms shall prohibit any placing of bluefin tuna in cages for the purpose of farming that is not accompanied by the documentation required by ICCAT and in accordance with Regulation (EU) No 640/2010 of the European Parliament and of the Council ⁽¹⁾. The documentation shall be accurate, complete and confirmed and validated by the Member State or CPC authorities of the catching vessels or traps.

Article 43

Inspections

Member States responsible for farms shall take the necessary measures to inspect each caging operation in the farms.

Article 44

Monitoring by video camera

1. Each Member State responsible for the farm shall ensure that caging operations are monitored by video camera in the water. A video record shall be produced for each caging operation in accordance with Annex IX.
2. Each Member State responsible for the farm shall ensure that the video records referred to in paragraph 1 are made available to the ICCAT inspectors and regional observers.
3. Each Member State responsible for the farm shall ensure that the video records referred to in paragraph 1 are made available to Union inspectors and national observers.
4. Each Member State responsible for the farm shall take the necessary measures to avoid any replacement, editing or manipulation of the original video record.

Article 45

Launching and conduct of investigations

1. Where there is a difference of more than 10 % in the number of bluefin tuna between the estimates made by the ICCAT regional observer, the relevant Member State control authorities or the farm operator, the Member State responsible for the farm shall, in cooperation with the Member State or CPC responsible for the catching vessel or trap, launch an investigation.
2. Pending the results of that investigation, harvesting shall not take place and the farming section of the BCD shall not be validated.
3. The Member States responsible for the farm and for the catching vessel or trap which undertake the investigations may use other information at their disposal including the results of the programmes referred to in Article 46 to conclude the investigation.

⁽¹⁾ Regulation (EU) No 640/2010 of the European Parliament and of the Council of 7 July 2010 establishing a catch documentation programme for bluefin tuna *Thunnus thynnus* and amending Council Regulation (EC) No 1984/2003 (OJ L 194, 24.7.2010, p. 1).

*Article 46***Measures and programmes to estimate the number and weight of bluefin tuna to be caged**

1. Member States shall take the necessary measures and actions as referred to in Article 37.
2. A programme using stereoscopic camera systems or alternative techniques that provide the equivalent precision shall cover 100 % of the caging operations in order to refine the number and weight of the fish in each caging operation.
3. That programme shall be implemented in accordance with the procedures set out in Section B of Annex X.
4. The results of that programme shall be communicated by the Member State responsible for the farm to the Member State or CPC responsible for the catching vessel or trap and to the Commission in accordance with Section B of Annex X. The Commission shall transmit them to the ICCAT Secretariat for transmission to the ICCAT regional observer.
5. When the results of the programme indicate that the quantities of bluefin tuna being caged differ from the quantities reported caught and transferred, the Member State responsible for the farm shall, in cooperation with the Member State or CPC responsible for the catching vessel or trap, launch an investigation. If the investigation is not concluded within 10 working days from the communication of the results referred to in paragraph 4 of this Article or if the outcome of the investigation indicates that the number or average weight of bluefin tuna is in excess of that reported caught and transferred, the flag Member State or CPC authorities of the catching vessel or trap shall issue a release order for the excess which must be released in accordance with the procedures laid down in Annex XI.
6. In accordance with the procedures set out in point 3 of Section B of Annex X and following the release, if applicable, the quantities derived from the programme shall be used to:
 - (a) determine the final catch figures to be deducted from the national quota;
 - (b) fill in those figures in the caging declarations and relevant sections of the BCD.
7. Each Member State responsible for the farm shall report on the results of those programmes by 30 August of each year to the Commission who shall submit those reports to the SCRS.
8. The transfer of live bluefin tuna from one farming cage to another farming cage shall not take place without the authorisation and the presence of the farm state control authorities.
9. A difference superior or equal to 10 % between the quantities of bluefin tuna reported caught by the vessel/trap and the quantities established by the control cameras, as referred to in paragraph 5 of this Article and Article 45, shall constitute a potential non-compliance by the vessel/trap concerned and Member States shall take the necessary measures to ensure the appropriate follow-up.

*Article 47***Caging report**

1. Within one week of the completion of the caging operation, the Member State responsible for the farm shall submit a caging report containing the elements set up in Section B of Annex X to the Member State or CPC whose vessels or traps have caught the bluefin tuna, and to the Commission. The report shall also contain the information included in the caging declaration as set out in Article 4b of and Annex Ia to Regulation (EC) No 1936/2001. The Commission shall forward the report to the ICCAT Secretariat.
2. For the purposes of paragraph 1, a caging operation shall not be deemed to be completed until any investigation launched and, if applicable, any release operation ordered, is concluded.

*Article 48***Implementing acts**

The Commission may adopt implementing acts laying down detailed rules for caging operations referred to in Articles 40 to 47 and the Annexes referred to in those Articles. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 59(2).

SECTION 6

Monitoring and surveillance*Article 49***Vessel monitoring system**

1. By way of derogation from Article 9(2) of Regulation (EC) No 1224/2009, the obligation concerning the VMS shall apply to all tug and towing vessels included in the ICCAT record of vessels referred to in Article 20(6) of this Regulation, irrespective of their length.
2. Fishing vessels over 15 metres length that are included in the list of vessels referred to in point (a) of Article 20(1) or in the list of vessels referred to in point (b) of Article 20(1) shall begin to transmit VMS data to ICCAT at least 15 days before the opening of the fishing season and shall continue to transmit those data for at least 15 days after the closure of the fishing season, unless a request is sent in advance to the Commission for the vessel to be removed from the ICCAT record of vessels.
3. For control purposes, the transmission of VMS data from catching vessels that are authorised to fish actively for bluefin tuna shall not be interrupted when vessels are in port.
4. Member States shall ensure that their fisheries monitoring centres forward to the Commission and a body designated by it, in real time and using the format 'https data feed', the VMS messages received from the fishing vessels flying their flag. The Commission shall send those messages electronically to the ICCAT Secretariat.
5. Member States shall ensure that:
 - (a) VMS messages from the fishing vessels flying their flag are forwarded to the Commission at least every two hours;
 - (b) in the event of technical malfunction of the VMS, alternative messages from the fishing vessels flying their flag received under Article 25(1) of Implementing Regulation (EU) No 404/2011 are forwarded to the Commission within 24 hours of receipt by their fisheries monitoring centres;
 - (c) messages forwarded to the Commission are sequentially numbered (with a unique identifier) in order to avoid duplication;
 - (d) messages forwarded to the Commission are in accordance with Article 24(3) of Implementing Regulation (EU) No 404/2011.
6. Each Member State shall take the necessary measures to ensure that all messages made available to its inspection vessels are treated in a confidential manner and are limited to inspection at sea operations.

*Article 50***National observer programme**

1. In respect of vessels active in the bluefin tuna fishery, Member States shall ensure at least the following percentage levels of national observer coverage:
 - (a) 20 % of its pelagic trawlers (over 15 metres);

- (b) 20 % of its long line vessels (over 15 metres);
 - (c) 20 % of its bait boats (over 15 metres);
 - (d) 100 % of towing vessels;
 - (e) 100 % of harvesting operations from traps.
2. Member States shall issue national observers with an official identification document.
3. The national observer tasks shall be, in particular, to:
- (a) monitor compliance by fishing vessels and traps with this Regulation;
 - (b) record, and report upon, the fishing activity which shall include the following:
 - (i) amount of catch (including by-catch) that also includes species disposition, such as retained on board or discarded dead or alive;
 - (ii) area of catch by latitude and longitude;
 - (iii) measure of effort (such as the number of sets, number of hooks), as defined in the ICCAT Field Manual for different gears;
 - (iv) date of catch;
 - (c) observe and estimate catches and verify entries made in the logbook;
 - (d) sight and record vessels which may be fishing contrary to ICCAT conservation and management measures.
4. National observers shall also carry out scientific work, such as collecting Task II data as defined by ICCAT, when required by ICCAT, based on the instructions from the SCRS.
5. For the purposes of paragraphs 1 to 4, each Member State shall also ensure:
- (a) representative temporal and spatial presence of national observers on its vessels and traps to ensure that the Commission receives adequate and appropriate data and information on catch, effort and other scientific and management aspects, taking into account characteristics of the fleets and fisheries;
 - (b) robust data collection protocols;
 - (c) that national observers are properly trained and approved before deployment;
 - (d) to the extent possible, minimal disruption to the operations of fishing vessels and traps fishing in the Convention Area.
6. Data and information collected under each Member State's observer programme shall be provided to the Commission by 15 July each year. The Commission shall forward that data and information to the SCRS and the ICCAT Secretariat, as appropriate.

Article 51

ICCAT regional observer programme

1. The ICCAT regional observer programme as set out in paragraphs 2 to 6 and as further specified in Annex VII shall apply in the Union.

2. Member States shall ensure that an ICCAT regional observer is present:
 - (a) on all purse seiners authorised to fish bluefin tuna;
 - (b) during all transfers of bluefin tuna from purse seiners;
 - (c) during all transfers of bluefin tuna from traps to transport cages;
 - (d) during all transfers from one farm to another;
 - (e) during all caging operations of bluefin tuna in farms;
 - (f) during all harvesting of bluefin tuna from farms.
3. Purse seiners without an ICCAT regional observer shall not be authorised to fish or to operate in the bluefin tuna fishery.
4. Member States responsible for farms shall ensure an ICCAT regional observer's presence during all caging operations and all harvesting of fish from those farms.
5. The tasks of ICCAT regional observers shall be, in particular, to:
 - (a) observe and monitor that fishing and farming operations are in compliance with the relevant ICCAT conservation and management measures;
 - (b) sign the ICCAT transfer declarations referred to in Article 38, caging reports referred to in Article 47 and BCDs when they agree that the information contained therein is consistent with their observations;
 - (c) carry out scientific work, such as collecting samples, as required by ICCAT, based on the instructions from the SCRS.
6. The flag Member State shall ensure that masters, crew, farm, trap and vessel owners do not obstruct, intimidate, interfere with, influence, bribe or attempt to bribe ICCAT regional observers in the performance of their duties.

SECTION 7

Inspections and cross-checks

Article 52

ICCAT Scheme of Joint International Inspection

1. The ICCAT Scheme of Joint International Inspection ('the ICCAT scheme') set out in Annex VIII shall apply in the Union.
2. Member States whose fishing vessels are authorised to fish bluefin tuna in the eastern Atlantic and the Mediterranean shall assign inspectors and carry out inspections at sea under the ICCAT scheme.
3. If, at any time, more than 15 fishing vessels flagged to a Member State are engaged in bluefin tuna fishing activities in the Convention area, that Member State shall deploy an inspection vessel for the purpose of inspection and control at sea in the Convention area throughout the period that those vessels are there. That obligation shall be deemed to have been complied with where Member States cooperate to deploy an inspection vessel or where a Union inspection vessel is deployed in the Convention area.
4. The Commission or a body designated by it may assign Union inspectors to the ICCAT scheme.
5. The Commission or a body designated by it shall coordinate the surveillance and inspection activities for the Union. The Commission may draw up, in coordination with the Member States concerned, joint inspection programmes to enable the Union to fulfil its obligation under the ICCAT scheme. Member States whose fishing vessels are engaged in the fishery of bluefin tuna shall adopt the necessary measures to facilitate the implementation of those programmes particularly as regards the human and material resources required and the periods and geographical areas when those resources are to be deployed.

6. Member States shall inform the Commission by 1 April of each year of the names of the inspectors and the inspection vessels they intend to assign to the ICCAT scheme during the year. Using that information, the Commission shall draw up, in collaboration with the Member States, a plan for the Union participation in the ICCAT scheme each year, which it shall send to the ICCAT Secretariat and the Member States.

Article 53

Transmission of inspection plans

1. By 31 January each year, Member States shall transmit their inspection plans to the Commission. The inspection plans shall be set up in accordance with:
 - (a) the objectives, priorities, and procedures as well as benchmarks for inspection activities set up in the Specific control and inspection programme for bluefin tuna in the eastern Atlantic and the Mediterranean established under Article 95 of Regulation (EC) No 1224/2009;
 - (b) the National control action programme for bluefin tuna in the eastern Atlantic and the Mediterranean established under Article 46 of Regulation (EC) No 1224/2009.
2. The Commission shall compile the national inspection plans and integrate them into the Union inspection plan. That plan shall be transmitted by the Commission to the ICCAT Secretariat, for endorsement by ICCAT, together with the plans referred to in Article 6(1).

Article 54

Inspections in case of infringements

1. The flag Member State shall take the action under paragraph 2 of this Article if a vessel flying its flag has:
 - (a) failed in its reporting requirement referred to in Articles 25 and 26; or
 - (b) committed an infringement of the provisions of this Regulation, Articles 89 to 93 of Regulation (EC) No 1224/2009 or Chapter IX of Regulation (EC) No 1005/2008.
2. The flag Member State shall ensure that a physical inspection takes place under its authority in its ports or by another person designated by the flag Member State when the vessel is not in one of its ports.

Article 55

Cross-check

1. Each Member State shall verify, including by using inspection reports, observer reports and VMS data, the submission of logbooks and relevant information recorded in the logbooks of its fishing vessels, transfer or transshipment documents and BCDs, in accordance with Article 109 of Regulation (EC) No 1224/2009.
2. Each Member State shall carry out cross-checks on all landings, transshipments or cagings between the quantities by species recorded in the fishing vessels logbook or quantities by species recorded in the transfer or transshipment declaration and the quantities recorded in the landing declaration or caging declaration, and any other relevant document, such as an invoice and/or sales notes, in accordance with Article 109 of Regulation (EC) No 1224/2009.

SECTION 8

Marketing

Article 56

Marketing measures

1. Without prejudice to Regulations (EC) No 1224/2009, (EC) No 1005/2008 and Regulation (EU) No 1379/2013 of the European Parliament and of the Council ⁽¹⁾, Union trade, landing, import, export, placing in cages for fattening or farming, re-export and transshipment of bluefin tuna that are not accompanied by accurate, complete and validated documentation set out in this Regulation, Regulation (EU) No 640/2010 and Article 4b of Regulation (EC) No 1936/2001, shall be prohibited.
2. Union trade, import, landing, placing in cages for fattening or farming, processing, export, re-export and transshipment of bluefin tuna shall be prohibited if:
 - (a) the bluefin tuna was caught by fishing vessels or traps whose flag State does not have a quota, catch limit or allocation of fishing effort for bluefin tuna in the eastern Atlantic and the Mediterranean, under the terms of ICCAT conservation and management measures; or
 - (b) the bluefin tuna was caught by a fishing vessel or a trap whose individual quota or whose state's fishing opportunities were exhausted at the time of the catch.
3. Without prejudice to Regulations (EC) No 1224/2009, (EC) No 1005/2008 and (EU) No 1379/2013, Union trade, imports, landings, processing and exports of bluefin tuna from fattening or farming farms that do not comply with the Regulations referred to in paragraph 1 shall be prohibited.

CHAPTER VI

FINAL PROVISIONS

Article 57

Evaluation

Member States shall submit to the Commission by 15 September each year a detailed report on their implementation of this Regulation. Based on the information received from Member States, the Commission shall submit by 15 October each year to the ICCAT Secretariat a detailed report on the implementation of ICCAT Recommendation 14-04.

Article 58

Financing

For the purposes of Regulation (EU) No 508/2014 of the European Parliament and of the Council ⁽²⁾, the multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean shall be deemed to be a multiannual plan within the meaning of Article 9 of Regulation (EU) No 1380/2013.

⁽¹⁾ Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).

⁽²⁾ Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council (OJ L 149, 20.5.2014, p. 1).

*Article 59***Implementation**

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 60***Repeal**

1. Regulation (EC) No 302/2009 is hereby repealed.
2. References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex XIII.

*Article 61***Entry into force**

This Regulation shall enter into force on the twentieth 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, 14 September 2016.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

I. KORČOK

ANNEX I

Specific conditions applicable to the fisheries referred to in Article 14(2)

1. In addition to the provisions set out in Article 9(3), the maximum number of baitboats and trolling boats authorised to fish for bluefin tuna in the eastern Atlantic under the specific conditions applying to the derogation referred to in point (a) of Article 14(2) is set at the number of Union catching vessels participating in the directed fishery for bluefin tuna in 2006.
 2. In addition to the provisions set out in Article 9(3), the maximum number of catching vessels authorised to fish for bluefin tuna in the Adriatic sea for farming purposes under the specific conditions applying to the derogation referred to in point (b) of Article 14(2) is set at the number of Union catching vessels participating in the directed fishery for bluefin tuna in 2008. For that purpose, the number of Croatian catching vessels participating in the directed fishery for bluefin tuna in 2008 shall be taken into account.
 3. In addition to the provisions set out in Article 9(3), the maximum number of baitboats, longliners and handliners authorised to fish for bluefin tuna in the Mediterranean under the specific conditions applying to the derogation referred to in point (c) of Article 14(2) is set at the number of Union catching vessels participating in the directed fishery for bluefin tuna in 2008.
 4. The maximum number of catching vessels determined in accordance with points 1, 2 and 3 of this Annex shall be allocated among the Member States in accordance with the TFEU and Article 16 of Regulation (EU) No 1380/2013.
 5. No more than 7 % of the Union quota for bluefin tuna between 8 kg or 75 cm and 30 kg or 115 cm shall be allocated among the authorised catching vessels referred to in point (a) of Article 14(2) and in point 1 of this Annex. That quota shall be allocated among Member States in accordance with the TFEU and Article 16 of Regulation (EU) No 1380/2013.
 6. By way of derogation from point (a) of Article 14(2), within the quota of 7 % referred to in point 5 of this Annex, up to 100 tonnes may be allocated for the capture of bluefin tuna of no less than 6,4 kg or 70 cm by baitboats of less than 17 metres.
 7. The maximum allocation of the Union quota among Member States to fish under the specific conditions applying to the derogation referred to in point (b) of Article 14(2) and point 2 of this Annex shall be determined in accordance with the TFEU and Article 16 of Regulation (EU) No 1380/2013.
 8. No more than 2 % of the Union quota for bluefin tuna between 8 kg or 75 cm and 30 kg or 115 cm shall be allocated among the authorised catching vessels referred to in point (c) of Article 14(2) and point 3 of this Annex. That quota shall be allocated among Member States in accordance with the TFEU and Article 16 of Regulation (EU) No 1380/2013.
 9. Each Member State whose baitboats, longliners, handliners and trolling boats are authorised to fish for bluefin tuna in accordance with Article 14(2) and this Annex shall establish the following tail tag requirements:
 - (a) tail tags are affixed on each bluefin tuna immediately upon offloading;
 - (b) each tail tag has a unique identification number which is included in bluefin tuna statistical documents and written on the outside of any package containing tuna.
-

ANNEX II

Logbook requirements

A. CATCHING VESSELS

Minimum specifications for fishing logbooks:

1. The logbook shall be numbered by sheet.
2. The logbook shall be completed every day (midnight) or before port arrival.
3. The logbook shall be completed in case of at-sea inspections.
4. One copy of the sheets shall remain attached to the logbook.
5. Logbooks shall be kept on board to cover a period of one year of operation.

Minimum standard information for fishing logbooks:

1. Master's name and address.
2. Dates and ports of departure, dates and ports of arrival.
3. Vessel's name, register number, ICCAT number, international radio call sign and IMO number (if available).
4. Fishing gear:
 - (a) type FAO code;
 - (b) dimension (e.g. length, mesh size, number of hooks).
5. Operations at sea with one line (minimum) per day of trip, providing:
 - (a) activity (e.g. fishing, steaming);
 - (b) position: exact daily positions (in degree and minutes), recorded for each fishing operation or at midday when no fishing has been conducted during that day;
 - (c) record of catches, including:
 - (1) FAO code;
 - (2) round (RWT) weight in kg per day;
 - (3) number of pieces per day.

For purse seiners that should be recorded by fishing operation, including nil return.

6. Master's signature.
7. Means of weight measure: estimation, weighing on board.
8. The logbook shall be kept in equivalent live weight of fish and shall mention the conversion factors used in the evaluation.

Minimum information for fishing logbooks in case of landing or transshipment:

1. Dates and port of landing/transshipment.
2. Products:
 - (a) species and presentation by FAO code;
 - (b) number of fish or boxes and quantity in kg.

3. Signature of the master or vessel agent.
4. In case of transhipment: receiving vessel name, its flag and ICCAT number.

Minimum information for fishing logbooks in case of transfer into cages:

1. Date, time and position (latitude/longitude) of transfer.
2. Products:
 - (a) species identification by FAO code;
 - (b) number of fish and quantity in kg transferred into cages.
3. Name of towing vessel, its flag and ICCAT number.
4. Name of the farm of destination and its ICCAT number.
5. In the case of a JFO, in addition to the information laid down in points 1 to 4, the masters shall record in their logbook:
 - (a) as regards the catching vessel transferring the fish into cages:
 - amount of catches taken on board,
 - amount of catches counted against its individual quota,
 - the names of the other vessels involved in the JFO;
 - (b) as regards the other catching vessels of the same JFO not involved in the transfer of the fish:
 - the name of those vessels, their international radio call signs and ICCAT numbers,
 - that no catches have been taken on board or transferred into cages,
 - amount of catches counted against their individual quotas,
 - the name and the ICCAT number of the catching vessel referred to in point (a).

B. TOWING VESSELS

1. The master of a towing vessel shall record in the daily logbook the date, time and position of transfer, the quantities transferred (number of fish and quantity in kg), the cage number, as well as the catching vessel's name, flag and ICCAT number, the name of the other vessel(s) involved and their ICCAT number, the farm of destination and its ICCAT number, and the ICCAT transfer declaration number.
2. Further transfers to auxiliary vessels or to other towing vessel shall be reported, including the same information as in point 1, as well as the auxiliary or towing vessel's name, flag and ICCAT number and the ICCAT transfer declaration number.
3. The daily logbook shall contain the details of all transfers carried out during the fishing season. The daily logbook shall be kept on board and be accessible at any time for control purposes.

C. AUXILIARY VESSELS

1. The master of an auxiliary vessel shall record the activities daily in the logbook, including the date, time and positions, the quantities of bluefin tuna taken on board, and the fishing vessel, farm or trap name he/she is operating in association with.
2. The daily logbook shall contain the details of all activities carried out during the fishing season. The daily logbook shall be kept on board and be accessible at any time for control purposes.

D. PROCESSING VESSELS

1. The master of a processing vessel shall report in the daily logbook the date, time and position of the activities and the quantities transhipped and the number and weight of bluefin tuna received from farms, traps or catching vessels, where applicable. The master should also report the names and ICCAT numbers of those farms, traps or catching vessels.

2. The master of a processing vessel shall maintain a daily processing logbook specifying the round weight and number of fish transferred or transhipped, the conversion factor used, and the weights and quantities by product presentation.
 3. The master of a processing vessel shall maintain a stowage plan that shows the location and the quantities of each species and presentation.
 4. The daily logbook shall contain the details of all transhipments carried out during the fishing season. The daily logbook, processing logbook, stowage plan and the originals of ICCAT transhipment declarations shall be kept on board and be accessible at any time for control purposes.
-

ICCAT Transhipment Declaration

Document No

Carrier vessel	Fishing Vessel	Final destination:
Name of vessel and radio call sign:	Name of the vessel and radio call sign:	Port:
Flag:	Flag:	Country:
Flag State authorisation No	Flag State authorisation No.	State:
National Register No	National Register No.	
ICCAT Register No	ICCAT Register No.	
IMO No	External identification:	
	Fishing logbook sheet No	

	Day	Month	Hour	Year	2_ 0_ _ _	F.V Master's name:	Carrier vessel Master's name:
Departure	_ _	_ _	_ _	From:	_ _ _ _		
Return	_ _	_ _	_ _	To:	_ _ _ _	Signature:	Signature:
Tranship.	_ _	_ _	_ _	_ _ _ _			

For transhipment, indicate the weight in kilograms or the unit used (e.g. box, basket) and the landed weight in kilograms of this unit: |_|_| kilograms.

LOCATION OF TRANSHIPMENT

Port	Sea		Species	Number of unit of fish	Type of product live	Type of product whole	Type of product gutted	Type of product head off	Type of product filleted	Type of product	Further transhipments
	Lat.	Long.									
											Date: _____ Place/Position: _____
											Authorisation CP No
											Transfer vessel Master's signature:
											Name of receiver vessel:
											Flag
											ICCAT Register No
											IMO No
											Master's signature
											Date: _____ Place/Position: _____
											Authorisation CP No
											Transfer vessel Master's signature:
											Name of receiver vessel:
											Flag
											ICCAT Register No
											IMO No
											Master's signature

Obligations in case of transhipment:

1. The original of the transhipment declaration shall be provided to the recipient vessel (processing/transport).
2. The copy of the transhipment declaration shall be kept by the correspondent catching vessel or trap.
3. Further transshipping operations shall be authorised by the relevant CPC which authorised the vessel to operate.
4. The original of the transhipment declaration has to be kept by the recipient vessel which holds the fish, up to the landing place.
5. The transshipping operation shall be recorded in the logbook of any vessel involved in the operation.

ANNEX IV

Document No	ICCAT Transfer Declaration		
1. TRANSFER OF LIVE BFT DESTINATED FOR FARMING			
Fishing vessel name: Call sign: Flag: Flag State transfer authorisation No ICCAT Register No External identification: Fishing logbook No JFO No	Trap name: ICCAT Register No	Tug vessel name: Call sign: Flag: ICCAT Register No: External identification:	Name of destination farm: ICCAT Register No: Cage number:
2. TRANSFER INFORMATION			
Date: __ / __ / ____	Place or position:	Port:	Lat: Long:
Number of individuals:		Species:	Weight:
Type of product: Live <input type="checkbox"/> Whole <input type="checkbox"/> Gutted <input type="checkbox"/> Other (Specify):			
Master of fishing vessel trap operator/farm operator name and signature:	Master of receiver vessel (tug, processing, carrier) name and signature:	Observer names, ICCAT No and signature:	
3. FURTHER TRANSFERS			
Date: __ / __ / ____	Place or position:	Port:	Lat: Long:
Tug vessel name:	Call sign:	Flag:	ICCAT Register No
Farm state transfer authorisation No:	External identification:	Master of receiver vessel name and signature:	

Date: __ / __ / ____	Place or position:	Port:	Lat:	Long:
Tug vessel name:	Call sign:	Flag:	ICCAT Register No	
Farm state transfer authorisation no:	External identification:	Master of receiver vessel name and signature:		
Date: __ / __ / ____	Place or position:	Port:	Lat:	Long:
Tug vessel name:	Call sign:	Flag:	ICCAT Register No	
Farm state transfer authorisation No:	External identification:	Master of receiver vessel name and signature:		
4. SPLIT CAGES				
Donor cage No	Kg:	No of fish:		
Donor tug vessel name:	Call sign:	Flag:	ICCAT Register No	
Receiving cage No	Kg:	No of fish:		
Receiving tug vessel name:	Call sign:	Flag:	ICCAT Register No	
Receiving cage No	Kg:	No of fish:		
Receiving tug vessel name:	Call sign:	Flag:	ICCAT Register No	
Receiving cage No	Kg:	No of fish:		
Receiving tug vessel name:	Call sign:	Flag:	ICCAT Register No	

ANNEX V

Catch report form

Flag	ICCAT Number	Vessel name	Report start date	Report end date	Report duration (d)	Catch date	Location of the catch		Catch			Attributed weight in case of a joint fishing operation (kg)
							Latitude	Longitude	Weight (kg)	Number of pieces	Average weight (kg)	

ANNEX VI

Joint fishing operation								
Flag State	Vessel name	ICCAT No	Duration of the operation	Identity of the operators	Vessel's individual quota	Allocation key per vessel	Fattening and farming farm destination	
							CPC	ICCAT No

Date ...

Validation of the flag State ...

ANNEX VII

ICCAT regional observer programme

ASSIGNMENT OF ICCAT REGIONAL OBSERVERS

1. Each ICCAT regional observer shall have the following qualifications to accomplish their tasks:
 - (a) sufficient experience to identify species and fishing gear;
 - (b) satisfactory knowledge of the ICCAT conservation and management measures assessed by a certificate provided by the Member States and based on ICCAT training guidelines;
 - (c) the ability to observe and record accurately;
 - (d) a satisfactory knowledge of the language of the flag of the vessel or farm observed.

OBLIGATIONS OF THE ICCAT REGIONAL OBSERVER

2. The ICCAT regional observers shall:
 - (a) have completed the technical training required by the guidelines established by ICCAT;
 - (b) be nationals of one of the Member States and, to the extent possible, not of the farm or trap state or the flag State of the purse seiner. If, however, bluefin tuna is harvested from the cage and traded as fresh products, the ICCAT regional observer that observes the harvest may be a national of the Member State responsible for the farm;
 - (c) be capable of performing the tasks set out in point 3;
 - (d) be included in the list of ICCAT regional observers maintained by ICCAT;
 - (e) not have current financial or beneficial interests in the bluefin tuna fishery.

ICCAT REGIONAL OBSERVER TASKS

3. The tasks of ICCAT regional observers shall be, in particular:
 - (a) as regards observers on purse seine vessels, to monitor the purse seine vessels' compliance with the relevant conservation and management measures adopted by ICCAT. In particular, the regional observer shall:
 - (1) in cases where the ICCAT regional observer observes what may constitute non-compliance with ICCAT recommendations, he/she shall submit that information without delay to the ICCAT regional observer implementing company who shall forward it without delay to the flag State authorities of the catching vessel;
 - (2) record and report upon the fishing activities carried out;
 - (3) observe and estimate catches and verify entries made in the logbook;
 - (4) issue a daily report of the purse seine vessels' transfer activities;
 - (5) sight and record vessels which may be fishing in contravention of ICCAT conservation and management measures;
 - (6) record and report upon the transfer activities carried out;
 - (7) verify the position of the vessel when engaged in transfer;

- (8) observe and estimate products transferred, including through the review of video recordings;
 - (9) verify and record the name of the fishing vessel concerned and its ICCAT number;
 - (10) carry out scientific work such as collecting Task II data when required by the ICCAT Commission, based on the directives from the SCRS;
- (b) as regards ICCAT regional observers in farms and traps, to monitor their compliance with the relevant conservation and management measures adopted by ICCAT. In particular, the ICCAT regional observer shall:
- (1) verify the data contained in the transfer declaration and caging declaration and BCD, including through the review of video records;
 - (2) certify the data contained in the transfer declaration and caging declaration and BCDs;
 - (3) issue a daily report of the farms' and traps' transfer activities;
 - (4) countersign the transfer declaration and caging declaration and BCDs only when he/she agrees that the information contained within them is consistent with his/her observations including a compliant video record as per the requirements referred to in Article 35(1) and Article 44(1);
 - (5) carry out such scientific work, for example collecting samples, as required by the Commission, based on the directives from the SCRS;
 - (6) register and verify the presence of any type of tag, including natural marks, and notify any sign of recent tag removals;
- (c) establish general reports compiling the information collected in accordance with this point and provide the master and farm operator with the opportunity to include therein any relevant information;
- (d) submit to the Secretariat the general report referred to in point (c) within 20 days from the end of the period of observation;
- (e) exercise any other functions as defined by the ICCAT Commission.
4. The ICCAT regional observer shall treat as confidential all information with respect to the fishing and transfer operations of the purse seiners and of the farms and shall accept that requirement in writing as a condition of appointment as an ICCAT regional observer.
5. The ICCAT regional observer shall comply with requirements established in the laws and regulations of the flag or farm state which exercises jurisdiction over the vessel or farm to which the ICCAT regional observer is assigned.
6. The ICCAT regional observer shall respect the hierarchy and general rules of behaviour which apply to all vessel and farm personnel, provided such rules do not interfere with the duties of the ICCAT regional observer under this programme, and with the obligations of vessel and farm personnel set out in point 7 of this Annex and Article 51(6).

OBLIGATIONS OF THE FLAG MEMBER STATES TOWARDS ICCAT REGIONAL OBSERVERS

7. Member States responsible for the purse seiner, farm or trap, shall ensure that ICCAT regional observers are:
- (a) allowed access to the vessel, farm and trap personnel and to the gear, cages and equipment;
 - (b) allowed access, upon request, 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 of this Annex:
 - (1) satellite navigation equipment,
 - (2) radar display viewing screens when in use,
 - (3) electronic means of communication;

- (c) provided with accommodation, including lodging, food and adequate sanitary facilities, equal to those of officers;
- (d) 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.

COSTS ARISING FROM THE ICCAT REGIONAL OBSERVER PROGRAMME

8. All costs arising from the operation of ICCAT regional observers shall be borne by each farm operator or owner of purse seiners.
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ANNEX VIII

ICCAT scheme of joint international inspection

ICCAT agreed at its Fourth Regular Meeting (Madrid, November 1975) and at its Annual Meeting in 2008 in Marrakesh that:

Pursuant to paragraph 3 of Article IX of the Convention, the ICCAT Commission recommends the establishment of the following arrangements for international control outside the waters under national jurisdiction for the purpose of ensuring the application of the Convention and the measures in force thereunder:

I. SERIOUS VIOLATIONS

1. For the purposes of these procedures, a serious violation means the following violations of the provisions of the ICCAT conservation and management measures adopted by the ICCAT Commission:
 - (a) fishing without a licence, permit or authorisation issued by the flag CPC;
 - (b) failure to maintain sufficient records of catch and catch-related data in accordance with the ICCAT Commission's reporting requirements or significant misreporting of such catch and/or catch-related data;
 - (c) fishing in a closed area;
 - (d) fishing during a closed season;
 - (e) intentional taking or retention of species in contravention of any applicable conservation and management measure adopted by ICCAT;
 - (f) significant violation of catch limits or quotas in force pursuant to ICCAT rules;
 - (g) using prohibited fishing gear;
 - (h) falsifying or intentionally concealing the markings, identity or registration of a fishing vessel;
 - (i) concealing, tampering with or disposing of evidence relating to the investigation of a violation;
 - (j) multiple violations which, taken together, constitute a serious disregard of measures in force pursuant to ICCAT;
 - (k) assault, resist, intimidate, sexually harass, interfere with, or unduly obstruct or delay an authorised inspector or observer;
 - (l) intentionally tampering with or disabling the VMS;
 - (m) such other violations as may be determined by the ICCAT, once those are included and circulated in a revised version of those procedures;
 - (n) fishing with the assistance of spotter planes;
 - (o) interference with the satellite monitoring system and/or operation of a vessel without the VMS;
 - (p) transfer activity without transfer declaration;
 - (q) transshipment at sea.
2. In the case of any boarding and inspection of a fishing vessel during which the authorised inspector observes an activity or condition that would constitute a serious violation, as defined in point 1, the authorities of the flag State of the inspection vessels shall immediately notify the flag State of the fishing vessel, directly as well as through the ICCAT Secretariat. In such situations, the inspector shall also inform any inspection ship of the flag State of the fishing vessel known to be in the vicinity.
3. The ICCAT inspector shall register, in the fishing vessel's logbook, the inspections undertaken and any infringements detected.

4. The flag Member State shall ensure that, following the inspection referred to in point 2, the fishing vessel concerned ceases all fishing activities. The flag Member State shall require the fishing vessel to proceed within 72 hours to a port designated by it, where an investigation shall be initiated.
5. If the vessel is not called to port, the flag Member State shall provide due justification in a timely manner to the European Commission which shall forward the information to the ICCAT Secretariat, who shall make it available on request to other Contracting Parties.

II. CONDUCT OF INSPECTIONS

6. Inspections shall be carried out by inspectors designated by the Contracting Parties. The names of the authorised government agencies and each inspector designated for that purpose by their respective governments shall be notified to the ICCAT Commission.
7. Ships carrying out international boarding and inspection duties in accordance with this Annex shall fly a special flag or pennant approved by the ICCAT Commission and issued by the ICCAT Secretariat. The names of the ships so used shall be notified to the ICCAT Secretariat as soon as practical in advance of the commencement of inspection activities. The ICCAT Secretariat shall make information regarding designated inspection vessels available to all CPCs, including by posting on its password-protected website.
8. Each inspector shall carry an appropriate identity document issued by the authorities of the flag State, which shall be in the form shown in point 21 of this Annex.
9. Subject to the arrangements agreed under point 16, a vessel flagged to a Contracting Party and fishing for tuna or tuna-like fish in the Convention area outside the waters within its national jurisdiction shall stop when given the appropriate signal in the International Code of Signals by a ship flying the ICCAT pennant described in point 7 and carrying an inspector, unless the vessel is actually carrying out fishing operations, in which case it shall stop immediately once it has finished such operations. The master of the vessel shall permit the inspection party, as specified in point 10, to board it and shall provide a boarding ladder. The master shall enable the inspection party to make such examination of equipment, catch or gear and any relevant documents as an inspector deems necessary to verify the compliance with the ICCAT Commission's recommendations in force in relation to the flag State of the vessel being inspected. Further, an inspector may ask for any explanations that are deemed necessary.
10. The size of the inspection party shall be determined by the commanding officer of the inspection vessel, taking into account relevant circumstances. The inspection party shall be as small as possible to safely and securely accomplish the duties set out in this Annex.
11. Upon boarding the vessel, the inspector shall produce the identity documentation described in point 8. The inspector shall observe generally accepted international regulations, procedures and practices relating to the safety of the vessel being inspected and its crew, and shall minimise interference with fishing activities or stowage of product and, to the extent practicable, avoid action which would adversely affect the quality of the catch on board.

Each inspector shall limit his/her enquiries to the ascertainment of the observance of the ICCAT Commission's recommendations in force in relation to the flag State of the vessel concerned. In making the inspection, an inspector may ask the master of the fishing vessel for any assistance that may be required. The inspector shall draw up a report of the inspection in a form approved by the ICCAT Commission. The inspector shall sign the report in the presence of the master of the vessel who shall be entitled to add or have added to the report any observations which he/she may think suitable and shall sign such observations.

12. Copies of the report shall be given to the master of the vessel and to the government of the inspection party, which shall transmit copies to the appropriate authorities of the flag State of the inspected vessel and to the ICCAT Commission. Where any infringement of ICCAT recommendations is discovered, the inspector shall, where possible, also inform any inspection ship of the flag State of the fishing vessel known to be in the vicinity.
13. Resistance to an inspector or failure to comply with his/her directions shall be treated by the flag State of the inspected vessel in a manner similar to such conduct committed with respect to a national inspector.
14. The inspector shall carry out his/her duties under these arrangements in accordance with the rules set out in this Regulation, but they shall remain under the operational control of their national authorities and shall be responsible to them.

ANNEX IX

Minimum standards for video recording procedures**Transfer operations**

1. The electronic storage device containing the original video record shall be provided to the ICCAT regional observer as soon as possible after the end of the transfer operation, who shall immediately initialise it to avoid any further manipulation.
2. The original recording shall be kept on board the catching vessel or by the farm or trap operator, where appropriate, during its entire period of authorisation.
3. Two identical copies of the video record shall be produced. One copy shall be transmitted to the ICCAT regional observer on board the purse seiner and one to the national observer on board the towing vessel, the latter of which shall accompany the transfer declaration and the associated catches to which it relates. That procedure shall only apply to national observers in the case of transfers between towing vessels.
4. At the beginning and/or the end of each video, the ICCAT transfer authorisation number shall be displayed.
5. The time and the date of the video shall be continuously displayed throughout each video record.
6. Before the start of the transfer, the video shall include the opening and closing of the net/door and footage showing whether the receiving and donor cages already contain bluefin tuna.
7. The video recording shall be continuous without any interruptions and cuts and cover the entire transfer operation.
8. The video record shall be of sufficient quality to estimate the number of bluefin tuna being transferred.
9. If the video record is of insufficient quality to estimate the number of bluefin tuna being transferred, then a new transfer shall be requested by the control authorities. The new transfer shall include all the bluefin tuna in the receiving cage into another cage which must be empty.

Caging operations

1. The electronic storage device containing the original video record shall be provided to the ICCAT regional observer as soon as possible after the end of the caging operation, who shall immediately initialise it to avoid any further manipulation.
 2. The original recording shall be kept by the farm, where applicable, during their entire period of authorisation.
 3. Two identical copies of the video record shall be produced. One copy shall be transmitted to the ICCAT regional observer deployed on the farm.
 4. At the beginning and/or the end of each video, the ICCAT caging authorisation number shall be displayed.
 5. The time and the date of the video shall be continuously displayed throughout each video record.
 6. Before the start of the caging, the video shall include the opening and closing of the net/door and whether the receiving and donor cages already contain bluefin tuna.
 7. The video recording shall be continuous without any interruptions and cuts and cover the entire caging operation.
 8. The video record shall be of sufficient quality to estimate the number of bluefin tuna being transferred.
 9. If the video record is of insufficient quality to estimate the number of bluefin tuna being transferred, then a new caging operation shall be requested by the control authorities. The new caging operation shall include all the bluefin tuna in the receiving farm cage into another farm cage which shall be empty.
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ANNEX X

Standards and procedures for the programmes and reporting obligations referred to in Article 46(2) to (7) and Article 47(1)**A. Use of stereoscopic cameras systems**

The use of stereoscopic cameras systems in the context of caging operations, as required by Article 46 of this Regulation, shall be conducted in accordance with the following:

1. The sampling intensity of live fish shall not be below 20 % of the amount of fish being caged. When technically possible, the sampling of live fish shall be sequential, one in every five specimens being measured; such a sample shall be made up of fish measured at a distance between 2 and 8 metres from the camera.
2. The dimensions of the transfer gate connecting the donor cage and the receiving cage shall be set at a maximum width of 10 metres and a maximum height of 10 metres.
3. When the length measurements of the fish present a multi-modal distribution (two or more cohorts of distinct sizes), it shall be possible to use more than one conversion algorithm for the same caging operation; the most up-to-date algorithm(s) established by SCRS shall be used to convert fork lengths into total weights, according to the size category of the fish measured during the caging operation.
4. Validation of the stereoscopic length measurements shall be undertaken prior to each caging operation using a scale bar at a distance of between 2 and 8 metres.
5. When the results of the stereoscopic programme are communicated, the information shall indicate the margin of error inherent to the technical specifications of the stereoscopic camera system, which shall not exceed a range of $\pm 5\%$.
6. The report on the results of the stereoscopic programme shall include details on all the technical specifications above, including the sampling intensity, the way of sampling methodology, the distance from the camera, the dimensions of the transfer gate, and the algorithms (length-weight relationship). SCRS shall review those specifications and, if necessary, provide recommendations to modify them.
7. In cases where the stereoscopic camera footage is of insufficient quality to estimate the weight of bluefin tuna being caged, a new caging operation shall be ordered by the Member State authorities responsible for the catching vessel, trap or farm.

B. Presentation and use of the results of the programmes

1. Decisions regarding differences between the catch report and the results from the stereoscopic system programme shall be taken at the level of the JFO or total trap catches, for JFOs and trap catches destined to a farm facility involving a single CPC and/or Member State. The decision regarding differences between the catch report and the results from the stereoscopic system programme shall be taken at the level of the caging operations for JFOs involving more than one CPC and/or Member State, unless otherwise agreed by all the flag CPC and/or Member State authorities of the catching vessels involved in the JFO.
2. The Member State responsible for the farm shall provide a report to the Member State or CPC responsible for the catching vessel or trap and to the Commission, including the following documents:
 - (a) technical stereoscopic system report including:
 - general information: species, site, cage, date, algorithm,
 - sizing statistical information: average weight and length, minimum weight and length, maximum weight and length, number of fish sampled, weight distribution, size distribution;
 - (b) detailed results of the programme, with the size and weight of every fish that was sampled;
 - (c) caging report including:
 - general information on the operation: number of the caging operation, name of the farm, cage number, BCD number, ITD number, name and flag of the catching vessel or trap, name and flag of the towing vessel, date of the stereoscopic system operation and footage file name,

- algorithm used to convert length into weight,
 - comparison between the amounts declared in the BCD and the amounts found with the stereoscopic system, in number of fish, average weight and total weight (the formula used to calculate the difference shall be: $(\text{stereoscopic system}-\text{BCD})/\text{stereoscopic system} * 100$),
 - margin of error of the system,
 - for those caging reports relating to JFOs/traps, the last caging report shall also include a summary of all information in previous caging reports.
3. When receiving the caging report, the Member State authorities of the catching vessel or trap shall take all the necessary measures according to the following situations:
- (a) the total weight declared by the catching vessel or trap in the BCD is within the range of the stereoscopic system results:
- no release shall be ordered,
 - the BCD shall be modified both in number (using the number of fish resulting from the use of the control cameras or alternative techniques) and average weight, while the total weight shall not be modified;
- (b) the total weight declared by the catching vessel or trap in the BCD is below the lowest figure of the range of the stereoscopic system results:
- a release shall be ordered using the lowest figure in the range of the stereoscopic system results,
 - the release operations shall be carried out in accordance with the procedure laid down in Article 34(2) and Annex XI,
 - after the release operations took place, the BCD shall be modified both in number (using the number of fish resulting from the use of the control cameras, minus the number of fish released) and average weight, while the total weight shall not be modified;
- (c) the total weight declared by the catching vessel or trap in the BCD exceeds the highest figure of the range of the stereoscopic system results:
- no release shall be ordered,
 - the BCD shall be modified for the total weight (using the highest figure in the range of the stereoscopic system results), for the number of fish (using the results from the control cameras) and average weight accordingly.
4. For any relevant modification of the BCD, the values (number and weight) entered in Section 2 shall be consistent with those in Section 6 and the values in Sections 3, 4 and 6, shall be not higher those in Section 2.
5. In case of compensation of differences found in individual caging reports across all cagings from a JFO/trap, whether or not a release operation is required, all relevant BCDs shall be modified on the basis of the lowest range of the stereoscopic system results. The BCDs related to the quantities of bluefin tuna released shall also be modified to reflect the weight/number released. The BCDs related to bluefin tuna not released but for which the results from the stereoscopic systems or alternative techniques differ from those reported caught and transferred shall also be amended to reflect those differences.

The BCDs relating to the catches from where the release operation took place shall also be modified to reflect the weight/number released.

ANNEX XI

Release protocol

1. The release of bluefin tuna from farming cages into the sea shall be recorded by video camera and observed by an ICCAT regional observer, who shall draft and submit a report together with the video records to the ICCAT Secretariat.
 2. When a release order has been issued, the farm operator shall request the deployment of an ICCAT regional observer.
 3. The release of bluefin tuna from transport cages or traps into the sea shall be observed by a national observer of the Member State responsible for the towing vessel or trap, who shall draft and submit a report to the responsible Member State control authorities.
 4. Before a release operation takes place, Member State control authorities might order a control transfer using standard and/or stereoscopic cameras to estimate the number and weight of the fish that need to be released.
 5. Member State authorities may implement any additional measures they consider necessary to guarantee that the release operations take place at the most appropriate time and place in order to increase the probability of the fish going back to the stock. The operator shall be responsible for the fish survival until the release operation has taken place. Those release operations shall take place within three weeks of the completion of the caging operations.
 6. Following completion of harvesting operations, fish remaining in a farm and not covered by the BCD shall be released in accordance with the procedures laid down in Article 34(2) and this Annex.
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ANNEX XII

Treatment of dead fish

During fishing operations by purse seiners, the quantities of fish found dead in the seine shall be recorded in the fishing vessel logbook and shall be deducted from the Member State quota accordingly.

Recording/treating of dead fish during the first transfer

- (1) The BCD shall be provided to the operator of the towing vessel with Section 2 (Total catch), Section 3 (Live fish trade) and Section 4 (Transfer — including 'dead' fish) completed.

The total quantities reported in Sections 3 and 4 shall be equal to the quantities reported in Section 2. The BCD shall be accompanied by the original ICCAT Transfer Declaration (ITD) in accordance with the provisions of this Regulation. The quantities reported in the ITD (transferred live), shall be equal to the quantities reported in Section 3 in the associated BCD.

- (2) A split of the BCD with Section 8 (Trade information) shall be completed and given to the operator of the auxiliary vessel which transports the dead bluefin tuna to shore (or retained on the catching vessel if landed directly to shore). The dead fish and split BCD shall be accompanied by a copy of the ITD.
 - (3) The quantities of dead fish shall be recorded in the BCD of the catching vessel which made the catch or, in the case of JFOs, in the BCD of the catching vessels or of a vessel flying another flag participating in the JFO.
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ANNEX XIII

Correlation table

Regulation (EC) No 302/2009	This Regulation
Article 1	Articles 1 and 2
Article 2	Article 3
Article 3	Article 4
Article 4(1)	Article 5(1)
Article 4(2)	Article 6(1)(a)
Article 4(3) and (5)	Article 7
Article 4(4), second subparagraph	Article 6(1)(a) and (2)
Article 4(6)(a),(b) and second subparagraph	Article 54
Article 4(6), third subparagraph	Article 20(2)
Article 4(7) to (12)	—
Article 4(13)	Article 5(3)
Article 4(15)	Article 17
Article 5(1)	Article 6(1)(b)
Article 5(2) to (6)	Article 9(1) to (6)
Article 5(7),(8) and the first subparagraph of paragraph 9	—
Article 5(9), second subparagraph	Article 6(2)
Article 6	Article 10
Article 7	Articles 11 and 12
Article 8	Article 17
Article 9(1) and (2)	Article 14(1) and (2)
Article 9(3),(4),(5) and (7) to (10)	Annex I
Article 9(6)	—
Article 9(11)	Article 14(3)
Article 9(12) to (15)	Article 15
Article 10	—
Article 11	Article 16(2),(3) and (5)
Article 12(1) to (4)	Article 19
Article 12(5)	—
Article 13(1),(2) and (3)	Article 19
Article 13(4)	—
Article 14(1),(2),(3) and (5)	Article 20
Article 14(4)	Article 22(1)
Article 15	Article 23
Article 16	Article 29(1),(3) and (4)
Article 17	Article 30

Regulation (EC) No 302/2009	This Regulation
Article 18(1)	Article 25
Article 18(2)	Annex II
Article 19	Article 24(1),(2) and (3)
Article 20(1) and (2)	Article 26(1),(2) and (3)
Article 20(3) and (4)	Article 27
Article 21	Article 31(1) to (4) and (6)
Article 22(1) and the first subparagraph of paragraph 2	Article 33(1),(3) and (5)
Article 22(2), second subparagraph	Article 34(1)
Article 22(3)	Article 34(2)
Article 22(4)	Article 38(1),(2) and (3)
Article 22(5)	Annex II
Article 22(6)	Article 33(6)
Article 22(7)	Article 35(1) and Annex IX
Article 22(8) and the first subparagraph of paragraph 9	Article 36
Article 22(9), second subparagraph	—
Article 22(10)	Article 39
Article 23	Article 32
Article 24(1)	Article 47(1)
Article 24(2),(4) and (6)	Article 40(2) to (5)
Article 24(3)	Article 41(1) and (2)
Article 24(5)	Article 42
Article 24(7)	Article 44(1) and Annex IX
Article 24(8), first subparagraph	Article 45(1) and (2)
Article 24(9)	—
Article 24(10)	Article 48
Article 24a	Annex X
Article 25	Article 49
Article 26(1)	Article 26(4)
Article 26(2)	Article 27(1)
Article 26(3)	Article 26(5)
Article 27(1)	Article 31(5)
Article 27(2)	Article 41
Article 27(3)	Article 3 point (24)
Article 28	Article 55
Article 29	Article 52
Article 30	Article 50
Article 31(1) and (2)(a),(b),(c) and (h)	Article 51 (2) to (6)
Article 31(2)(d) to (g)	Annex VII
Article 31(3) and (4)	Annex VII

Regulation (EC) No 302/2009	This Regulation
Article 32	Article 35(2),(3) and (4) Article 44(2),(3) and (4)
Article 33	—
Article 33a	Article 53
Article 34	Article 56
Article 35	—
Article 36	—
Article 37	Article 57
Article 38	Article 58
Article 38a	Article 59(1) and (2)
Article 39	Article 60
Article 40	—
Article 41	Article 61

REGULATION (EU) 2016/1628 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 14 September 2016****on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive 97/68/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 114 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 internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital has to be ensured. To that end, measures for the reduction of air pollution by engines to be installed in non-road mobile machinery were established by Directive 97/68/EC of the European Parliament and of the Council ⁽³⁾. It is appropriate to pursue efforts in the development and operation of the internal market of the Union.
- (2) The internal market should be based on transparent, simple and consistent rules which provide legal certainty and clarity from which businesses and consumers alike can benefit.
- (3) A new regulatory approach has been introduced in respect of Union engine type-approval legislation, with the aim of simplifying and accelerating the adoption of such legislation. Pursuant to that approach, the legislator sets out the fundamental rules and principles and empowers the Commission to adopt delegated and implementing acts concerning further technical details. Therefore, with regard to substantive requirements, this Regulation should lay down only essential provisions on the emission of gaseous and particulate pollutants and type-approval for internal combustion engines for non-road mobile machinery, and should empower the Commission to lay down the technical specifications in delegated and implementing acts.
- (4) Regulation (EU) No 167/2013 of the European Parliament and of the Council ⁽⁴⁾ established a regulatory framework for the approval and market surveillance of agricultural and forestry vehicles. Given the similarity of the fields and the positive experience in applying Regulation (EU) No 167/2013, many of the rights and obligations established by that Regulation should be taken into consideration in respect of non-road mobile machinery. However, it is essential that a distinct set of rules be adopted to fully take into account the specific requirements of engines for non-road mobile machinery.

⁽¹⁾ Opinion of the European Economic and Social Committee of 18 February 2015 (not yet published in the Official Journal).

⁽²⁾ Position of the European Parliament of 5 July 2016 (not yet published in the Official Journal) and decision of the Council of 18 July 2016.

⁽³⁾ Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery (OJ L 59, 27.2.1998, p. 1).

⁽⁴⁾ Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles (OJ L 60, 2.3.2013, p. 1).

- (5) Directive 2006/42/EC of the European Parliament and of the Council ⁽¹⁾ lays down the essential health and safety requirements in relation to design and manufacture in order to improve the safety of machinery placed on the market. However, that Directive does not lay down gaseous and particulate pollutant emission requirements for engines for non-road mobile machinery. Certain specific obligations for non-road mobile machinery manufacturers should therefore be laid down in order to ensure that the installation of engines in such machinery is carried out in a manner that does not adversely affect engine performance with regard to gaseous and particulate pollutant emissions. Certain obligations relating to aspects of the emission limits for gaseous and particulate pollutants from engines for non-road mobile machinery are also necessary, in order to ensure the effectiveness of the emission limits for engines laid down in this Regulation.
- (6) This Regulation should contain substantive requirements relating to emission limits and EU type-approval procedures for engines for non-road mobile machinery. The main elements of the relevant requirements of this Regulation are based on the results of the impact assessment of 20 November 2013 carried out by the Commission and in which the different options were analysed by listing potential advantages and disadvantages in terms of economic, environmental, safety and societal aspects and in terms of health effects. Both qualitative and quantitative aspects were included in that analysis.
- (7) With a view to ensuring the functioning of the internal market, this Regulation should lay down harmonised rules for the EU type-approval of engines for non-road mobile machinery. For that purpose, new emission limits should be established and applied to engines for non-road mobile machinery as well as for agricultural and forestry machinery, to reflect technological progress and to ensure convergence with Union policies in the on-road sector. Those new emission limits should be established with a view to achieving Union air quality targets and reducing the emissions from non-road mobile machinery and agricultural and forestry vehicles, thus decreasing the share of non-road mobile machinery emissions in relation to road vehicle emissions. Accordingly, the scope of Union legislation in this field should be broadened, with a view to improving market harmonisation at Union and international level and minimising the risk of market distortions and adverse health effects.
- (8) In addition to broadening the scope of Union legislation in the field of market harmonisation, while minimising the risk of market distortions, this Regulation aims to simplify the current legal framework, including by providing for measures for the simplification of administrative procedures, and to improve the general conditions for enforcement of such legislation, in particular by strengthening the rules on market surveillance.
- (9) The Commission White Paper of 28 March 2011, entitled 'Roadmap to a Single European Transport Area — Towards a competitive and resource efficient transport system', highlights the particular role to be played by railways and inland waterways in achieving climate targets. Given that the progress of those modes of transport compares unfavourably with that of other sectors in relation to improving air quality, the Commission and Member States' authorities, within their respective remits, should provide different ways of supporting innovation in emission technology so that the continuing increase in the volume of freight shifted to rail and inland waterways goes hand-in-hand with an improvement in air quality in Europe.
- (10) The requirements in respect of engines for non-road mobile machinery should follow the principles laid down in the Commission Communication of 5 June 2002 entitled 'Action plan "Simplifying and improving the regulatory environment"'.
- (11) The Seventh General Union Environment Action Programme as adopted by Decision No 1386/2013/EU of the European Parliament and of the Council ⁽²⁾ recalls that the Union has agreed to achieve levels of air quality that do not give rise to significant negative impacts on, and risks to, human health and the environment. Union legislation has established appropriate emission limits for ambient air quality for the protection of human health

⁽¹⁾ Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (OJ L 157, 9.6.2006, p. 24).

⁽²⁾ Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet' (OJ L 354, 28.12.2013, p. 171).

and sensitive individuals in particular, as well as for national emission ceilings ⁽¹⁾. Following its Communication of 4 May 2001, which established the Clean Air for Europe (CAFE) Programme, on 21 September 2005 the Commission adopted another Communication entitled 'Thematic Strategy on air pollution'. One of the conclusions of that thematic strategy is that further reductions in emissions from the transport sector (air, maritime and land transport), from households and from the energy, agricultural and industrial sectors are needed to achieve Union air quality objectives. In that context, the task of reducing emissions from engines for non-road mobile machinery should be approached as part of an overall strategy. The new emissions limits, referred to as 'Stage V', are one of the measures designed to reduce the current in-use emissions of air pollutants, such as particulate pollutants, as well as ozone precursors such as nitrogen oxides (NO_x) and hydrocarbons.

- (12) On 12 June 2012, the World Health Organisation, through its International Agency for Research on Cancer, reclassified diesel engine exhaust emissions as 'carcinogenic to humans' (Group 1), based on sufficient evidence that exposure is associated with an increased risk of lung cancer.
- (13) In order to bring about an improvement in the Union's air quality and reach its objectives on air protection in a sustainable manner between now and 2020, and beyond, continuous efforts are required to reduce emissions from various types of engines. For that reason, manufacturers should be provided in advance with clear and comprehensive information on future emission limit values, and should be afforded an appropriate period of time in which to comply with them and pursue the requisite technical developments.
- (14) In setting emission limits, it is important to take into account the implications for the competitiveness of markets and manufacturers, the direct and indirect costs imposed on business and the benefits that accrue in terms of stimulating innovation, improving air quality, reducing health costs and increasing life expectancy.
- (15) The reduction of emissions from engines in a sustainable manner requires the constant intensification of direct cooperation between manufacturers and related businesses, on the one hand, and well-established scientific research institutions, on the other. Such cooperation plays a significant role in the development of new products and technologies that positively contribute to improving air quality.
- (16) Emissions from engines for non-road mobile machinery constitute a significant proportion of the total man-made emissions of certain noxious atmospheric pollutants. Engines responsible for a considerable share of air pollution by NO_x and particulate matter should be subject to the new emission limits.
- (17) In order to guarantee an optimum level of protection for persons working in the vicinity of machinery, and to keep the cumulative exposure of persons working in the vicinity of several different items of mobile machinery and equipment as low as possible, technology that is currently available should be used to minimise emissions.
- (18) The Commission should keep under review emissions which are, as yet, unregulated and which arise as a consequence of the wider use of new fuel formulations, engine technologies and emission control systems. Where necessary, the Commission should submit a proposal to the European Parliament and to the Council with a view to regulating such emissions.
- (19) It is necessary to encourage the introduction of alternative fuel engines which can have low NO_x and particulate pollutant emissions. Therefore, limit values for total hydrocarbons should be adapted in order to take into account non-methane hydrocarbons and methane emissions.
- (20) This Regulation is without prejudice to the entitlement of Member States to lay down, in compliance with the Treaties, such requirements as they may deem necessary to ensure that the public and workers are protected whenever non-road mobile machinery referred to in this Regulation is in use, provided that such requirements do not affect the placing on the market of engines for such machinery.

⁽¹⁾ Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme (OJ L 242, 10.9.2002, p. 1); Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p. 1).

- (21) In order to ensure that emissions of ultrafine particulate pollutants (of size 0,1 µm and below) are regulated, the Commission should be empowered to adopt a number-based approach to emissions of particulate pollutants, in addition to the mass-based approach which is currently used. The number-based approach should draw on the results of the Particulate Measurement Programme of the United Nations Economic Commission for Europe (UNECE) and should be consistent with the existing ambitious objectives for the environment.
- (22) In order to achieve those environmental objectives, it is appropriate that the particle number limits laid down in this Regulation are likely to reflect the highest levels of performance currently achieved with particle filters by using the best available technology.
- (23) Given the long lifetime of non-road mobile machinery, it is appropriate to consider the retrofitting of engines already in service. Such retrofitting should, in particular, target densely populated urban areas as a means of helping Member States to comply with Union air quality legislation. To ensure a comparable and ambitious level of retrofitting, Member States should take into account the principles of UNECE Regulation No. 132.
- (24) Where appropriate and where technologies are interlinked, synergies should be sought between the reduction of gaseous and particulate pollutant emissions from engines for non-road mobile machinery, and emission limits as applied to heavy-duty vehicles. Such action could help to improve economies of scale and improve air quality.
- (25) The Commission should adopt worldwide harmonised test cycles in the test procedures that form the basis of EU type-approval emissions regulations. The application of portable emissions measurement systems for monitoring actual in-use emissions should also be considered.
- (26) In order to address actual in-use emissions and to prepare the in-service conformity process, a testing methodology for monitoring compliance with emission performance requirements based on the use of portable emission measurement systems should be adopted within an appropriate timeframe.
- (27) The proper functioning of the exhaust after-treatment system, specifically in the case of NO_x, is essential for complying with the established limits for pollutant emissions. In this context, measures aimed at ensuring the proper operation of exhaust after-treatment systems that rely on the use of any consumable or non-recoverable reagent should be introduced.
- (28) Portable fire-fighting pumps are essential in certain emergency situations in which a channelled water supply is unavailable. The installation of exhaust after-treatment systems in engines for such machinery would, however, increase their weight and operating temperatures to the extent that it would become dangerous for the operator and they would be impossible to carry by hand. Portable fire-fighting pumps should, therefore, be excluded from the scope of this Regulation.
- (29) Modifications to an engine such as the inactivation of its exhaust after-treatment system, or the increase in its power, could have serious consequences for the engine's emissions performance and durability. Legal persons carrying out such modifications should therefore be responsible for ensuring that the applicable emission limits are respected.
- (30) Engines which are covered by, and comply with, the new rules on emission limits and EU type-approval procedures laid down by this Regulation should be permitted to be placed on the market in the Member States. Such engines should not be subject to any other national emission requirements in respect of their being placed on the market. This should be without prejudice to the right of Member States to encourage or restrict the use of engines that have already been placed on the market, provided that the criteria applied are not discriminatory and are objectively justified. Member States granting EU type-approvals should take verification measures in order to ensure that engines produced under EU type-approval procedures can be identified.
- (31) Engines for export and for use by the armed forces should not be subject to the emission limits laid down in this Regulation. However, in order to distinguish such engines from engines which are subject to those emission limits, markings should be required in certain cases.

- (32) In order to take account of logistic supply constraints and to allow for 'just in time' production flow, and to avoid unnecessary costs and administrative burden, a manufacturer should, with the consent of the original equipment manufacturer ('OEM'), be allowed to deliver an engine separately from its exhaust after-treatment system.
- (33) Some non-road mobile machinery operates under conditions of an extreme nature involving risks to life or health, or is subject to very challenging technical requirements. In view of those particular circumstances, and given the relatively small number of engines for such non-road mobile machinery, certain exemptions to the emission limit requirements laid down in this Regulation should be provided for in respect of engines to be used in potentially explosive atmospheres and in lifeboat launch vehicles.
- (34) In order to allow for the field-testing activities carried out by manufacturers, which are inherent in the engine development process, the temporary placing on the market of engines that have not been EU type-approved at that stage should be allowed. Exemptions allowing the temporary placing on the market of engines for the purpose of field-testing prototypes should also be permissible.
- (35) In order to take account of long term projects in the railway sector requiring heavy investments, an exemption should be provided, in accordance with Directive 2008/57/EC of the European Parliament and of the Council ⁽¹⁾, for engines included in projects which were launched before the date of application of this Regulation and which are at an advanced stage of development.
- (36) It is essential not to hamper technical innovation as regards the emission performance of engines for non-road mobile machinery with requirements that are not currently provided for by existing administrative procedures for type-approval. It is therefore necessary to provide for certain exemptions and rules in respect of engines that incorporate new technologies or new concepts.
- (37) OEMs that produce a limited number of units per year face severe challenges when re-designing their fleet within the standard transition period. Those manufacturers are typically small and medium-sized enterprises ('SMEs') that have limited engineering capacity and often obtain information regarding future stage engines later than other OEMs. This is the case, in particular, of agricultural machinery manufacturers producing a limited number of units per year that would face a serious structural challenge when undertaking the transition to Stage V emission limits. It is therefore necessary to provide for specific rules in respect of such cases.
- (38) The placing on the market of engines intended to replace engines that are already installed in non-road mobile machinery, and which comply with less stringent emission limits than those laid down in this Regulation, should be permitted in order to allow manufacturers to fulfil their warranty obligations and to ensure sufficient availability of such engines on the market.
- (39) According to current estimates, a number of broad gauge line locomotives will need to be replaced between 2016 and 2025. High-power engine locomotives suitable for the 1 520 mm railway network are not available on the Union market. Custom-built solutions would significantly increase the cost of a new locomotive and would deter railway operators from renewing their fleets. The technical and economic constraints of the 1 520 mm railway network should be considered in the EU type-approval procedures. In order to facilitate and speed up the greening of the railway sector in the Member States affected and to promote the use of the best technology currently available on the market, a temporary exemption in respect of certain requirements should be granted for those locomotives on the railway network. Such an exemption could allow the impact of rail traffic on the environment to be reduced.
- (40) Cotton production within the Union is limited to very few Member States. Due to the high costs of new cotton harvesting machinery, and in order to avoid placing an additional financial burden on the cotton production sector, which would further threaten its economic viability, operators should be granted access to a wide range of second-hand cotton harvesting machinery. Therefore, Member States should have the possibility of applying, for a limited period of time, national law to engines installed in such machinery.

⁽¹⁾ Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (OJ L 191, 18.7.2008, p. 1).

- (41) In relation to market surveillance, this Regulation should impose obligations on national authorities which are more specific than the corresponding obligations laid down in Regulation (EC) No 765/2008 of the European Parliament and of the Council ⁽¹⁾.
- (42) In order to ensure that the procedure for monitoring conformity of production, which is one of the cornerstones of the EU type-approval system, has been correctly implemented and functions properly, manufacturers should be regularly checked by the appointed competent authority or by an appropriately qualified technical service designated for that purpose.
- (43) The Union is a contracting party to the UNECE Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be fitted to and/or used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions ('Revised 1958 Agreement'). As a consequence, approvals granted under UNECE regulations, and the amendments thereto, which the Union has voted in favour of or to which the Union has acceded, in application of Council Decision 97/836/EC ⁽²⁾, should be recognised as equivalent to EU type-approvals granted under this Regulation. Accordingly, in order to ensure consistency and alignment between Union and UNECE legislation, the Commission should be empowered to adopt delegated acts in order to determine which UNECE regulations are to apply to EU type-approvals.
- (44) In order to supplement this Regulation with further technical details, 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 the monitoring of in-service emission performance, technical tests and measurement procedures, conformity of production, separate delivery of engine exhaust after-treatment systems, engines for field-testing, engines for use in explosive atmospheres, equivalence of engine EU type-approvals, information for OEMs and end-users, and standards and assessment of technical services. 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 ⁽³⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and 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.
- (45) In order to ensure uniform conditions for the implementation 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 ⁽⁴⁾.
- (46) Member States should lay down rules on penalties applicable to infringements of this Regulation and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.
- (47) With a view to taking into account on-going technical progress and the latest findings in the fields of research and innovation, the further pollutant emission reduction potential of engines already installed in non-road mobile machinery should be identified. The focus of such assessment should be on the engine categories that fall for the first time within the scope of this Regulation, and on those in respect of which emission limit values remain unaltered under this Regulation.

⁽¹⁾ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

⁽²⁾ Council Decision 97/836/EC of 27 November 1997 with a view to accession by the European Community to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ('Revised 1958 Agreement') (OJ L 346, 17.12.1997, p. 78).

⁽³⁾ OJ L 123, 12.5.2016, p. 1.

⁽⁴⁾ 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).

- (48) The specific limit values, test procedures and requirements for pollutant emissions laid down in this Regulation should also apply to engines for agricultural and forestry tractors covered by Regulation (EU) No 167/2013. Given the combined effect of the Stage IV postponement for agricultural tractors of categories T2, T4.1 and C2 and the Stage V application dates, Stage IV would, in respect of the power range 56-130 kW, have a very short duration. In order to avoid inefficiencies and an unnecessary burden, the Stage IV compulsory EU type-approval date should be delayed by one year and the flexibility quantity increased appropriately. Furthermore, the transition clauses in this Regulation in respect of the Stage V application requirements should also apply to Stage III B engines. Regulation (EU) No 167/2013 and Commission Delegated Regulation (EU) 2015/96⁽¹⁾ should, therefore, be amended accordingly.
- (49) In the interests of clarity, predictability, rationality and simplification, and in order to reduce the burden on engine and non-road mobile machinery manufacturers, this Regulation should only contain a limited number of implementation stages for the introduction of new emission levels and EU type-approval procedures. The timely definition of requirements is essential for ensuring sufficient lead-time for manufacturers to develop, test and implement technical solutions for engines produced in series, and for manufacturers and approval authorities to put in place the necessary administrative systems.
- (50) Directive 97/68/EC has been substantially amended several times. In the interests of clarity predictability, rationality and simplification, that Directive should be repealed and replaced by a regulation and a limited number of delegated and implementing acts. The adoption of a regulation ensures that its provisions are directly applicable, in particular, to manufacturers, approval authorities and technical services, and that they can be amended much more quickly and efficiently to take better account of technical progress.
- (51) Directive 97/68/EC should therefore be repealed with effect from a date which would allow industry sufficient time to adapt to this Regulation and to the technical specifications and administrative provisions to be laid down in the delegated and implementing acts adopted pursuant thereto.
- (52) Directive 97/68/EC does not provide a derogation for engines for non-road mobile machinery to be used in potentially explosive atmospheres. In order to take account of the strict technical requirements that are essential for the operational safety of such engines, Directive 97/68/EC should be amended in order to allow derogations for such engines to be applied until that Directive is repealed.
- (53) The exchange of data and information related to EU type-approvals needs to be improved so that this Regulation can be applied effectively and swiftly. Therefore, the national authorities should be required to cooperate efficiently with each other and with the Commission, and to exchange data and information relating to EU type-approvals by means of the Internal Market Information System ('IMI') established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council⁽²⁾. In order to facilitate the implementation of this Regulation, a module of IMI specifically customised for non-road mobile machinery should be established. It should also be possible for manufacturers and technical services to use IMI for the exchange of data and information on engines for non-road mobile machinery.
- (54) Since the objectives of this Regulation, namely to lay down harmonised rules on the administrative and technical requirements relating to emission limits and EU type-approval procedures for engines for non-road mobile machinery, cannot be sufficiently achieved by the Member States, but can rather, by reason of their scale and effects, be better achieved at Union level, 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 Regulation does not go beyond what is necessary in order to achieve those objectives,

⁽¹⁾ Commission Delegated Regulation (EU) 2015/96 of 1 October 2014 supplementing Regulation (EU) No 167/2013 of the European Parliament and of the Council as regards environmental and propulsion unit performance requirements of agricultural and forestry vehicles (OJ L 16, 23.1.2015, p. 1).

⁽²⁾ Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation') (OJ L 316, 14.11.2012, p. 1).

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter

1. This Regulation establishes for all engines referred to in Article 2(1) emission limits for gaseous and particulate pollutants as well as the administrative and technical requirements relating to EU type-approval.

This Regulation also lays down certain obligations in relation to non-road mobile machinery in which an engine as referred to in Article 2(1) is being, or has been, installed, as regards the emission limits for gaseous and particulate pollutants from such engines.

2. This Regulation also establishes the requirements for the market surveillance of engines referred to in Article 2(1) which are installed in or are intended to be installed in non-road mobile machinery and which are subject to EU type-approval.

Article 2

Scope

1. This Regulation applies to all engines falling within the categories set out in Article 4(1) which are installed in or are intended to be installed in non-road mobile machinery and, insofar as the emission limits for gaseous and particulate pollutants from those engines are concerned, to such non-road mobile machinery.

2. This Regulation does not apply to engines for:

- (a) the propulsion of vehicles referred to in Article 2(1) of Directive 2007/46/EC of the European Parliament and of the Council ⁽¹⁾;
- (b) the propulsion of agricultural and forestry tractors as defined in point (8) of Article 3 of Regulation (EU) No 167/2013;
- (c) the propulsion of vehicles referred to in Article 2(1) of Regulation (EU) No 168/2013 of the European Parliament and of the Council ⁽²⁾;
- (d) stationary machinery;
- (e) sea-going vessels requiring a valid maritime navigation or safety certificate;
- (f) craft as defined in Directive (EU) 2016/1629 of the European Parliament and of the Council ⁽³⁾ and not falling within its scope;
- (g) the propulsion or auxiliary purposes of inland waterway vessels of a net power of less than 19 kW;
- (h) watercraft as defined in point (1) of Article 3 of Directive 2013/53/EU of the European Parliament and of the Council ⁽⁴⁾;

⁽¹⁾ Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of the systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ L 263, 9.10.2007, p. 1).

⁽²⁾ Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles (OJ L 60, 2.3.2013, p. 52).

⁽³⁾ Directive (EU) 2016/1629 of the European Parliament and of the Council of 14 September 2016 laying down technical requirements for inland waterway vessels, amending Directive 2009/100/EC and repealing Directive 2006/87/EC (see page 118 of this Official Journal).

⁽⁴⁾ Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013 on recreational craft and personal watercraft and repealing Directive 94/25/EC (OJ L 354, 28.12.2013, p. 90).

- (i) aircraft as defined in point (a) of Article 2 of Commission Regulation (EU) No 1321/2014 ⁽¹⁾;
- (j) recreational vehicles, except snowmobiles, all-terrain vehicles and side-by-side vehicles;
- (k) vehicles and machinery exclusively used or intended to be exclusively used in competitions;
- (l) portable fire-fighting pumps as defined and covered by the European standard on portable fire-fighting pumps ⁽²⁾;
- (m) reduced-scale models or reduced-scale replicas of vehicles or machinery manufactured, for recreational purposes, to a smaller scale than the original and having a net power of less than 19 kW.

Article 3

Definitions

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

- (1) 'non-road mobile machinery' means any mobile machine, transportable equipment or vehicle with or without bodywork or wheels, not intended for the transport of passengers or goods on roads, and includes machinery installed on the chassis of vehicles intended for the transport of passengers or goods on roads;
- (2) 'EU type-approval' means the procedure whereby an approval authority certifies that an engine type or engine family satisfies the relevant administrative provisions and technical requirements of this Regulation;
- (3) 'gaseous pollutants' means the following pollutants in their gaseous state emitted by an engine: carbon monoxide (CO), total hydrocarbons (HC) and oxides of nitrogen (NO_x); NO_x being nitric oxide (NO) and nitrogen dioxide (NO₂), expressed as NO₂ equivalent;
- (4) 'particulate matter' or 'PM' means the mass of any material in the gas emitted by an engine that is collected on a specified filter medium after diluting the gas with clean filtered air so that the temperature does not exceed 325 K (52 °C);
- (5) 'particle number' or 'PN' means the number of solid particles emitted by an engine with a diameter greater than 23 nm;
- (6) 'particulate pollutants' means any matter emitted by an engine that is measured as PM or PN;
- (7) 'internal combustion engine' or 'engine' means an energy converter, other than a gas turbine, designed to transform chemical energy (input) into mechanical energy (output) with an internal combustion process; it includes, where they have been installed, the emission control system and the communication interface (hardware and messages) between the engine's electronic control unit(s) and any other powertrain or non-road mobile machinery control unit necessary to comply with Chapters II and III;
- (8) 'engine type' means a group of engines which do not differ in essential engine characteristics;
- (9) 'engine family' means a manufacturer's grouping of engine types which, through their design, have similar exhaust emission characteristics, and respect the applicable emission limit values;
- (10) 'parent engine' means an engine type selected from an engine family in such a way that its emissions characteristics are representative of that engine family;
- (11) 'replacement engine' means an engine that:
 - (a) is exclusively used to replace an engine already placed on the market and installed in non-road mobile machinery; and
 - (b) complies with an emission stage which is lower than that applicable on the date of the engine's replacement;

⁽¹⁾ Commission Regulation (EU) No 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks (OJ L 362, 17.12.2014, p. 1).

⁽²⁾ European standard EN 14466+A1: 2009 (Fire-fighting pumps — Portable pumps — Safety and performance requirements, tests).

- (12) 'in-service engine' means an engine that is operated in non-road mobile machinery over its normal operating patterns, conditions and payloads, and is used to perform the emission monitoring tests as referred to in Article 19;
- (13) 'CI engine' means an engine that works on the compression-ignition ('CI') principle;
- (14) 'SI engine' means an engine that works on the spark-ignition ('SI') principle;
- (15) 'hand-held SI engine' means an SI engine having a reference power of less than 19 kW, and used in a piece of equipment that meets at least one of the following conditions:
- (a) it is carried by the operator throughout the performance of its intended function(s);
 - (b) it operates multi-positionally, such as upside down or sideways, to perform its intended function(s);
 - (c) its dry weight, including engine, is less than 20 kg, and it meets at least one of the following conditions:
 - (i) its operator provides physical support for or, alternatively, carries the equipment throughout the performance of its intended function(s);
 - (ii) its operator provides physical support or attitudinal control for the equipment throughout the performance of its intended function(s);
 - (iii) it is used in a generator or a pump;
- (16) 'liquid fuel' means a fuel which exists in the liquid state at standard ambient conditions (298 K, absolute ambient pressure 101,3 kPa);
- (17) 'gaseous fuel' means any fuel which is wholly gaseous at standard ambient conditions (298 K, absolute ambient pressure 101,3 kPa);
- (18) 'dual-fuel engine' means an engine that is designed to simultaneously operate with a liquid fuel and a gaseous fuel, both fuels being metered separately, the consumed amount of one of the fuels relative to the other one being able to vary depending on the operation;
- (19) 'single-fuel engine' means an engine that is not a dual-fuel engine;
- (20) 'GER' (Gas Energy Ratio) means, in the case of a dual-fuel engine, the ratio of the energy content of the gaseous fuel over the energy content of both fuels; in the case of a single-fuel engine, GER is defined as being either 1 or 0 according to the type of fuel;
- (21) 'constant-speed engine' means an engine the EU type-approval of which is limited to constant-speed operation, excluding engines the constant-speed governor function of which is removed or disabled; it may be provided with an idle speed that can be used during start-up or shut-down and it may be equipped with a governor that can be set to an alternative speed when the engine is stopped;
- (22) 'variable-speed engine' means an engine that is not a constant-speed engine;
- (23) 'constant-speed operation' means an engine operation with a governor that automatically controls the operator demand to maintain engine speed, even under changing load;
- (24) 'auxiliary engine' means an engine installed or intended to be installed in non-road mobile machinery that does not directly or indirectly provide propulsion;
- (25) 'net power' means the engine power in kW obtained on a test bench at the end of the crankshaft, or its equivalent, measured in accordance with the method of measuring the power of internal combustion engines specified in UNECE Regulation No. 120 using a reference fuel or fuel combination set out in Article 25(2);
- (26) 'reference power' means the net power that is used to determine the applicable emission limit values for the engine;

- (27) 'rated net power' means the net power in kW as declared by the manufacturer of an engine at rated speed;
- (28) 'maximum net power' means the highest value of the net power on the nominal full-load power curve for the engine type;
- (29) 'rated speed' means the maximum full load speed allowed by an engine's governor, as designed by the manufacturer, or, if a governor is not present, the speed at which the maximum net power is attained by the engine, as specified by the manufacturer;
- (30) 'engine production date' means the date, expressed as the month and year, on which the engine passes the final check, after it has left the production line, and is ready to be delivered or to be put into stock;
- (31) 'transition period' means the first 24 months following the dates set out in Annex III for the placing on the market of Stage V engines;
- (32) 'transition engine' means an engine that has an engine production date that is prior to the date set out in Annex III for the placing on the market of Stage V engines and that:
- (a) complies with the latest applicable emission limits defined in the relevant legislation applicable on 5 October 2016; or
 - (b) falls within a power range, or is used or intended for use in an application, that was not subject to pollutant emission limits and type-approval at Union level on 5 October 2016;
- (33) 'non-road mobile machine production date' means the month and year indicated on the statutory marking of the machine or, in the absence of a statutory marking, the month and year in which it passes the final check after it has left the production line;
- (34) 'inland waterway vessel' means a craft falling within the scope of Directive (EU) 2016/1629;
- (35) 'generating set' means an independent non-road mobile machine that is not part of a power train, primarily intended to produce electric power;
- (36) 'stationary machinery' means machinery that is intended to be permanently installed in one location for its first use and is not intended to be moved, by road or otherwise, except during shipment from the place of manufacture to the place of first installation;
- (37) 'permanently installed' means bolted, or otherwise effectively fixed so that it cannot be removed without the use of tools or equipment, to a foundation or an alternative constraint intended to cause the engine to operate in one single location in a building, structure, facility or installation;
- (38) 'snowmobile' means a self-propelled machine that is intended for off-road travel primarily on snow, is driven by tracks in contact with snow and steered by a ski or skis in contact with the snow, and has a maximum unladen mass, in running order, of 454 kg (including standard equipment, coolant, lubricants, fuel and tools but excluding optional accessories and the driver);
- (39) 'all-terrain vehicle' or 'ATV' means a motorised vehicle, propelled by an engine, intended primarily to travel on unpaved surfaces on four or more wheels with low-pressure tyres, having a seat designed to be straddled by the driver only, or a seat designed to be straddled by the driver and a seat for no more than one passenger, and handlebars for steering;
- (40) 'side-by-side vehicle' or 'SbS' means a self-propelled, operator-controlled, non-articulated vehicle intended primarily to travel on unpaved surfaces on four or more wheels, having a minimum unladen mass, in running order, of 300 kg (including standard equipment, coolant, lubricants, fuel and tools but excluding optional accessories and the driver) and a maximum design speed of 25 km/h or more; such a vehicle is also designed to transport persons and/or goods, and/or to pull and push equipment, is steered by a control other than a handlebar, is designed for recreational or utility purposes and carries no more than six people including the driver, sitting side by side on one or more non-straddle seats;
- (41) 'railway vehicle' means non-road mobile machinery that operates exclusively on railway tracks;

- (42) 'locomotive' means a railway vehicle designed to provide, either directly through its own wheels or indirectly through the wheels of other railway vehicles, the motive power for propelling itself and for propelling other railway vehicles that are designed to carry freight, passengers and other equipment, itself being designed or intended not to carry freight or passengers, other than those operating it;
- (43) 'railcar' means a railway vehicle designed to provide, either directly through its own wheels or indirectly through the wheels of other railway vehicles, the motive power for propelling itself, and is specifically designed to carry goods or passengers, or both goods and passengers, and is not a locomotive;
- (44) 'auxiliary railway vehicle' means a railway vehicle that is not a railcar or locomotive, including but not limited to a railway vehicle specifically designed to perform maintenance or construction work or lifting operations associated with the track or other infrastructure of the railway;
- (45) 'mobile crane' means a self-powered jib crane capable of travelling on-road or off-road or both, and relying on gravity for stability and operating on tyres, crawlers or with other mobile arrangements;
- (46) 'snow thrower' means a self-powered machine that is exclusively designed for clearing snow from a paved surface by collecting a quantity of snow and projecting it forcefully through a chute;
- (47) 'making available on the market' means any supply of an engine or non-road mobile machinery for distribution or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- (48) 'placing on the market' means the first making available on the Union market of an engine or non-road mobile machinery;
- (49) 'manufacturer' means any natural or legal person who is responsible to the approval authority for all aspects of the engine EU type-approval or authorisation process and for ensuring conformity of engine production, and who is also responsible for market surveillance concerns for the engines produced, whether or not they are directly involved in all stages of the design and construction of the engine which is the subject of the EU type-approval process;
- (50) 'manufacturer's representative' or 'representative' means any natural or legal person established in the Union whom the manufacturer duly appoints by a written mandate to represent it in matters concerning the approval authority or the market surveillance authority and to act on its behalf in matters covered by this Regulation;
- (51) 'importer' means any natural or legal person established in the Union who places on the market an engine from a third country, whether or not the engine is already installed in non-road mobile machinery;
- (52) 'distributor' means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes an engine available on the market;
- (53) 'economic operator' means the manufacturer, the manufacturer's representative, the importer or the distributor;
- (54) 'original equipment manufacturer' or 'OEM' means any natural or legal person that manufactures non-road mobile machinery;
- (55) 'approval authority' means the authority of a Member State established or appointed by a Member State and notified by it to the Commission and which has competence for:
- (a) all aspects of the EU type-approval of an engine type or of an engine family;
 - (b) the authorisation process;
 - (c) granting and, where appropriate, withdrawing or refusing EU type-approval, and issuing EU type-approval certificates;
 - (d) acting as the contact point for the approval authorities of other Member States;

- (e) designating the technical services; and
 - (f) ensuring that the manufacturer meets its obligations regarding conformity of production;
- (56) 'technical service' means an organisation or body designated by the approval authority as a testing laboratory to carry out tests, or as a conformity assessment body to carry out the initial assessment and other tests or inspections, on behalf of the approval authority, or the authority itself when carrying out those functions;
- (57) 'market surveillance' means the activities carried out and the measures taken by national authorities to ensure that engines made available on the market comply with the relevant Union harmonisation legislation;
- (58) 'market surveillance authority' means an authority of a Member State that is responsible for carrying out market surveillance in its territory;
- (59) 'national authority' means an approval authority or any other authority involved in and responsible for, in respect of engines to be installed in non-road mobile machinery or of non-road mobile machinery in which engines are installed, market surveillance, border control or the placing on the market in a Member State;
- (60) 'end-user' means any natural or legal person, other than the manufacturer, OEM, importer or distributor, that is responsible for operating the engine installed in non-road mobile machinery;
- (61) 'emission control strategy' means an element or a set of design elements incorporated into the overall design of an engine, or into non-road mobile machinery in which an engine is installed, and used in controlling emissions;
- (62) 'emission control system' means any device, system or element of design that controls or reduces emissions;
- (63) 'defeat strategy' means an emission control strategy that reduces the effectiveness of the emission control system under ambient or engine operating conditions encountered either during normal machine operation or outside the EU type-approval test procedures;
- (64) 'electronic control unit' means an engine's electronic device that is part of the emission control system and uses data from engine sensors to control engine parameters;
- (65) 'exhaust gas recirculation' or 'EGR' means a technical device that is part of the emission control system and reduces emissions by routing exhaust gases that have been expelled from the combustion chamber(s) back into the engine to be mixed with incoming air before or during combustion, except for the use of valve timing to increase the amount of residual exhaust gas in the combustion chamber(s) that is mixed with incoming air before or during combustion;
- (66) 'exhaust after-treatment system' means a catalyst, particulate filter, deNOx system, combined deNOx particulate filter or any other emission-reducing device, with the exception of exhaust gas recirculation and turbochargers, that is part of the emission control system but is installed downstream of the engine exhaust ports;
- (67) 'tampering' means inactivation, adjustment or modification of the emission control system, including any software or other logical control elements of such a system, that has the effect, whether intended or not, of worsening the emissions performance of the engine;
- (68) 'test cycle' means a sequence of test points, each with a defined speed and torque, to be followed by the engine when being tested under steady state or transient operating conditions;
- (69) 'steady-state test cycle' means a test cycle in which engine speed and torque are held at a finite set of nominally constant values; steady-state tests are either discrete mode tests or ramped-modal tests;
- (70) 'transient test cycle' means a test cycle with a sequence of normalised speed and torque values that vary on a second-by-second basis with time;
- (71) 'crankcase' means the enclosed spaces in, or external to, an engine which are connected to the oil sump by internal or external ducts through which gases and vapours can be emitted;

- (72) 'regeneration' means an event during which emissions levels change while the exhaust after-treatment system's performance is being restored by design and which can be classified as continuous regeneration or infrequent (periodic) regeneration;
- (73) 'emission durability period' or 'EDP' means the number of hours or, where applicable, the distance used to determine the deterioration factors;
- (74) 'deterioration factors' means the set of factors that indicate the relationship between emissions at the start and end of the emission durability period;
- (75) 'virtual testing' means computer simulations, including calculations, undertaken to demonstrate the level of performance of an engine as an aid to decision-making without requiring the use of a physical engine.

Article 4

Engine categories

1. For the purposes of this Regulation, the following engine categories, divided into the sub-categories set out in Annex I, apply:
- (1) 'category NRE':
- (a) engines for non-road mobile machinery intended and suited to move, or to be moved, by road or otherwise, that are not excluded under Article 2(2) and are not included in any other category set out in points (2) to (10) of this paragraph;
 - (b) engines having a reference power of less than 560 kW used in the place of Stage V engines of categories IWP, IWA, RLL or RLR;
- (2) 'category NRG': engines having a reference power that is greater than 560 kW, exclusively for use in generating sets; engines for generating sets other than those having those characteristics are included in the categories NRE or NRS, according to their characteristics;
- (3) 'category NRSh': hand-held SI engines having a reference power that is less than 19 kW, exclusively for use in hand-held machinery;
- (4) 'category NRS': SI engines having a reference power that is less than 56 kW and not included in category NRSh;
- (5) 'category IWP':
- (a) engines exclusively for use in inland waterway vessels, for their direct or indirect propulsion, or intended for their direct or indirect propulsion, having a reference power that is greater than or equal to 19 kW;
 - (b) engines used in place of engines of category IWA provided that they comply with Article 24(8);
- (6) 'category IWA': auxiliary engines exclusively for use in inland waterway vessels and having a reference power that is greater than or equal to 19 kW;
- (7) 'category RLL': engines exclusively for use in locomotives, for their propulsion or intended for their propulsion;
- (8) 'category RLR':
- (a) engines exclusively for use in railcars, for their propulsion or intended for their propulsion;
 - (b) engines used in the place of Stage V engines of category RLL;
- (9) 'category SMB': SI engines exclusively for use in snowmobiles; engines for snowmobiles other than SI engines are included in the category NRE;
- (10) 'category ATS': SI engines exclusively for use in ATVs and SbS; engines for ATVs and SbS other than SI engines are included in the category NRE.

2. A variable-speed engine of a particular category may be used in the place of a constant-speed engine of the same category.

Variable-speed engines of category IWP used for constant-speed operation shall additionally comply with Article 24(7) or Article 24(8), as applicable.

3. Engines for auxiliary railway vehicles and auxiliary engines for railcars and locomotives are included in the categories NRE or NRS, according to their characteristics.

CHAPTER II

GENERAL OBLIGATIONS

Article 5

Obligations of Member States

1. Member States shall establish or appoint approval authorities and market surveillance authorities in accordance with this Regulation.
2. Member States shall notify the Commission of the establishment and appointment of the approval and market surveillance authorities referred to in paragraph 1, including their names, postal and electronic addresses and areas of responsibility. The Commission shall publish a list and details of the approval authorities on its website.
3. Member States shall only permit the placing on the market of:
 - (a) engines that are covered by a valid EU type-approval granted in accordance with this Regulation, regardless of whether they are already installed in non-road mobile machinery; and
 - (b) non-road mobile machinery in which engines as referred to in point (a) are installed.
4. Member States shall not prohibit, restrict or impede the placing on the market of:
 - (a) engines on grounds relating to aspects of their construction and functioning covered by this Regulation, where those engines satisfy its requirements;
 - (b) non-road mobile machinery on grounds relating to gaseous and particulate pollutant emissions from engines installed in such machinery, where those engines fall within the scope of this Regulation and satisfy its requirements.
5. Member States shall organise and carry out market surveillance and the control of engines on the market in accordance with Chapter III of Regulation (EC) No 765/2008.

Article 6

Obligations of approval authorities

1. Approval authorities shall ensure that manufacturers applying for EU type-approval comply with this Regulation.
2. Approval authorities shall only grant EU type-approval to engine types or engine families that comply with this Regulation.
3. Approval authorities shall make public, by means of IMI, a register of all engine types and engine families for which EU type-approvals have been granted, extended or withdrawn, or in respect of which an application for EU type-approval has been rejected.

That register shall contain at least the following information:

- (a) name and address of the manufacturer and name of the company, if different;
- (b) trade name(s) or trade mark(s), as appropriate, belonging to the manufacturer;
- (c) designation of the engine types covered by the EU type-approval of the engine type or, where applicable, by the EU type-approval of the engine family;
- (d) engine category;
- (e) number of the EU type-approval, including the number of any extensions;
- (f) date of granting, extension, refusal or withdrawal of the EU type-approval; and
- (g) the content of the sections 'General engine information' and 'Final emission result' of the test report referred to in Article 24(12).

Article 7

Obligations of market surveillance authorities

1. Market surveillance authorities shall perform documentary checks and, where appropriate, physical and laboratory checks of engines, on an adequate scale and on the basis of adequate samples. When doing so, they shall take account of established principles of risk assessment, of any complaints and of any other relevant information.
2. Market surveillance authorities may require economic operators to make such documentation and information available as is deemed necessary for the purpose of carrying out the authorities' activities.

Article 8

General obligations of manufacturers

1. Manufacturers shall ensure that when their engines are placed on the market they are manufactured and approved in accordance with this Regulation.
2. Where manufacturers modify an engine which is subject to EU type-approval in such a manner that it subsequently qualifies to belong to a different category or sub-category, they shall be responsible for ensuring that the engine complies with the requirements applicable to that category or sub-category.

Where a legal person modifies an engine in such a way that it no longer complies with the emission limits applicable to it according to its category or sub-category, that person shall be considered to be responsible for re-establishing compliance with those emission limits.

3. Manufacturers shall be responsible to the approval authority for all aspects of the EU type-approval process and for ensuring conformity of production, regardless of whether they are directly involved in all stages of the construction of an engine.
4. Manufacturers shall ensure that procedures are in place for series production to remain in conformity with the approved type and for monitoring emissions of in-service engines in accordance with Article 19.

Changes in the design or characteristics of an engine type and changes in the requirements with which an engine type is declared to be in conformity shall be taken into account in accordance with Chapter VI.

5. In addition to the statutory marking referred to in Article 32, manufacturers shall indicate, on the engines they have manufactured and place on the market or, where that is not possible, in a document accompanying the engine, their name, registered trade name or registered trade mark and the address in the Union at which they can be contacted.

6. Upon reasoned request, manufacturers shall provide the OEM with a duplicate of the statutory marking referred to in Article 15(4).
7. Manufacturers shall ensure that, while they are responsible for an engine, storage or transport conditions do not jeopardise its compliance with this Chapter and Chapter III.
8. Manufacturers shall keep the EU type-approval certificate with its attachments as referred to in Article 23(1) and, where applicable, a copy of the statement of conformity referred to in Article 31 at the disposal of the approval authorities for a period of 10 years after the placing on the market of an engine.
9. Manufacturers shall provide national authorities, upon reasoned request and via the approval authority, with a copy of the EU type-approval certificate for an engine. That copy shall be in a language which can be easily understood by the requesting national authority.
10. For the purpose of EU type-approval of engines, manufacturers established outside the Union shall appoint a single representative established within the Union to represent them in their dealings with the approval authority.
11. For the purpose of market surveillance, manufacturers established outside the Union shall appoint a single representative established within the Union, which may be the representative referred to in paragraph 10.

Article 9

Obligations of manufacturers concerning engines that are not in conformity

1. A manufacturer who has reason to believe or considers that one of its engines placed on the market is not in conformity with this Regulation shall immediately conduct an investigation into the nature of the suspected non-conformity and the likely extent of its occurrence.

Based on the outcome of the investigation, the manufacturer shall take corrective measures to ensure that engines in production are brought into conformity with the approved engine type or engine family in a timely manner.

The manufacturer shall immediately inform the approval authority that granted the EU type-approval of the investigation, giving details, in particular, of the non-conformity and of any corrective measures taken.

2. Notwithstanding paragraph 1, a manufacturer shall not be required to take corrective measures in respect of an engine which is not in conformity with this Regulation as a result of modifications made after it has been placed on the market and that were not authorised by the manufacturer.

Article 10

Obligations of manufacturers' representatives for market surveillance

As a minimum, manufacturers' representatives for market surveillance shall perform the following tasks, which shall be specified in the written mandate received from the manufacturer:

- (a) ensure that the EU type-approval certificate with its attachments as referred to in Article 23(1) and, where applicable, a copy of the statement of conformity referred to in Article 31 can be made available to the approval authorities for a period of ten years following the placing on the market of an engine;
- (b) provide the approval authority, upon reasoned request, with all the information and documentation necessary to demonstrate the conformity of production of an engine;
- (c) cooperate with the approval and market surveillance authorities, at their request, in respect of any action taken under the mandate.

*Article 11***General obligations of importers**

1. Importers shall place on the market only compliant engines which have received EU type-approval.
2. Before placing on the market an EU type-approved engine, importers shall ensure that:
 - (a) the EU type-approval certificate with its attachments as referred to in Article 23(1) is available;
 - (b) the engine bears the statutory marking referred to in Article 32;
 - (c) the engine complies with Article 8(5).
3. For a period of ten years following the placing on the market of the engine, importers shall keep, where applicable, a copy of the statement of conformity referred to in Article 31 at the disposal of the approval and market surveillance authorities, and shall ensure that the EU type-approval certificate with its attachments as referred to in Article 23(1) can be made available to those authorities, upon request.
4. Importers shall indicate, on the engine or, where that is not possible, in a document accompanying the engine, their name, registered trade name or registered trade mark and the address at which they can be contacted.
5. Importers shall ensure that the engine is accompanied by the information and instructions referred to in Article 43.
6. Importers shall ensure that while they are responsible for an engine, storage or transport conditions do not jeopardise its compliance with this Chapter or Chapter III.
7. Importers shall provide a requesting national authority, upon reasoned request, with all the information and documentation necessary to demonstrate the conformity of an engine. That information and documentation shall be in a language which can be easily understood by the requesting national authority.

*Article 12***Obligations of importers concerning engines that are not in conformity**

1. An importer that has reason to believe or considers that an engine is not in conformity with this Regulation, and in particular that it does not correspond to its EU type-approval, shall not place the engine on the market until it has been brought into conformity.

The importer shall inform, without undue delay, the manufacturer and the market surveillance authorities, as well as the approval authority that granted the EU type-approval, thereof.

2. An importer that has reason to believe or considers that an engine which it has placed on the market is not in conformity with this Regulation shall immediately conduct an investigation into the nature of the suspected non-conformity and the likely extent of its occurrence.

Based upon the outcome of the investigation, the importer shall take corrective measures and inform the manufacturer thereof to ensure that engines in production are brought into conformity with the approved engine type or engine family in a timely manner.

*Article 13***General obligations of distributors**

1. When making an engine available on the market, distributors shall act with due care with regard to the requirements of this Regulation.

2. Before making an engine available on the market, distributors shall verify that:
 - (a) the manufacturer has complied with Article 8(5);
 - (b) where applicable, the importer has complied with Article 11(2) and (4);
 - (c) the engine bears the statutory marking referred to in Article 32;
 - (d) the information and instructions referred to in Article 43 are available in a language that can be easily understood by the OEM.
3. Distributors shall ensure that while they are responsible for an engine, storage or transport conditions do not jeopardise its compliance with this Chapter or Chapter III.
4. Distributors shall, upon reasoned request, ensure that the manufacturer provides the requesting national authority with the documentation specified in Article 8(8), or that the importer provides the requesting national authority with the documentation specified in Article 11(3).

Article 14

Obligations of distributors concerning engines that are not in conformity

1. Where a distributor has reason to believe or considers that an engine is not in conformity with this Regulation, it shall not make the engine available on the market until it has been brought into conformity.
2. The distributor shall inform the manufacturer or the manufacturer's representative if it has reason to believe or considers that an engine which it has made available on the market is not in conformity with this Regulation, to ensure that the corrective measures necessary to bring the engines in production into conformity with the approved engine type or engine family are taken in accordance with Article 9 or 12.

Article 15

Obligations of OEMs concerning the installation of engines

1. OEMs shall install EU type-approved engines in non-road mobile machinery in accordance with the instructions provided by the manufacturer pursuant to Article 43(2), and in a manner that does not adversely affect the engine's performance with regard to its gaseous and particulate pollutant emissions.
2. Where an OEM does not follow the instructions referred to in paragraph 1 of this Article, or modifies an engine in the course of its installation in non-road mobile machinery in a manner that adversely affects the engine's performance with regard to its gaseous and particulate pollutant emissions, that OEM shall be considered to be a manufacturer for the purposes of this Regulation and shall, in particular, be subject to the obligations laid down in Articles 8 and 9.
3. OEMs shall install EU type-approved engines in non-road mobile machinery only in accordance with the kinds of exclusive use provided for in Article 4.
4. Where the statutory marking of the engine referred to in Article 32 is not visible without removing parts, the OEM shall affix to the non-road mobile machinery, in a visible manner, a duplicate of the marking as referred to in that Article and in the relevant implementing act, provided by the manufacturer.
5. Where non-road mobile machinery with an installed transition engine is placed on the market in accordance with Article 58(5), OEMs shall indicate the non-road mobile machine production date as part of the marking on the machine.
6. Where a manufacturer delivers to an OEM an engine separately from its exhaust after-treatment system in accordance with Article 34(3), the OEM shall, where applicable, provide the manufacturer with information relating to the assembly of the engine and its exhaust after-treatment system.

*Article 16***Application of manufacturers' obligations to importers and distributors**

An importer or distributor that makes an engine available on the market under its name or trade mark, or that modifies such an engine in such a way that its compliance with the applicable requirements may be affected, shall be considered to be a manufacturer for the purposes of this Regulation and shall, in particular, be subject to the obligations laid down in Articles 8 and 9.

*Article 17***Notification obligation for economic operators and OEMs**

Economic operators and OEMs shall, upon request, notify the approval and market surveillance authorities of the following, for a period of five years from the date of placing on the market:

- (a) any economic operator who has supplied them with an engine;
- (b) any economic operator or, where identifiable, any OEM to whom they have supplied an engine.

CHAPTER III

SUBSTANTIVE REQUIREMENTS*Article 18***Exhaust emission requirements for EU type-approval**

1. Manufacturers shall ensure that engine types and engine families are designed, constructed and assembled so as to comply with the requirements laid down in Chapter II and this Chapter.
2. As from the dates for the placing on the market of the engines set out in Annex III, engine types and engine families shall not exceed the exhaust emission limit values referred to as Stage V and set out in Annex II.

Where, in accordance with the parameters defining the engine family laid down in the relevant implementing act, one engine family covers more than one power range, the parent engine (for the purposes of the EU type-approval) and all engine types within the same family (for the purposes of conformity of production) shall, with respect to the applicable power ranges:

- (a) meet the most stringent emission limit values;
 - (b) be tested using the test cycles that correspond to the most stringent emission limit values;
 - (c) be subject to the earliest applicable dates for the EU type-approval and placing on the market set out in Annex III.
3. The exhaust emissions of engine types and engine families shall be measured on the basis of the test cycles set out in Article 24 and in accordance with Article 25.
 4. Engine types and engine families shall be designed and fitted with emission control strategies in such a way as to prevent tampering to the extent possible. The use of defeat strategies shall be prohibited.
 5. The Commission shall adopt implementing acts laying down the details for the parameters to be used for the definition of engine types and engine families, including their operation modes, and the technical details for the prevention of tampering as referred to in paragraph 4 of this Article. Those implementing acts shall be adopted, by 31 December 2016, in accordance with the examination procedure referred to in Article 56(2).

*Article 19***Monitoring of emissions of in-service engines**

1. The gaseous pollutant emissions from engines belonging to engine types or engine families of emission Stage V that have been type-approved in accordance with this Regulation shall be monitored by testing in-service engines installed in non-road mobile machinery and operated over their normal operating duty cycles. Such testing shall be conducted, under the responsibility of the manufacturer and in compliance with the requirements of the approval authority, on engines that have been correctly maintained, in compliance with the provisions on the selection of engines, test procedures and reporting of results for the different engine categories.

The Commission shall conduct pilot programmes with a view to developing appropriate test procedures for those engine categories and sub-categories in respect of which such test procedures are not in place.

The Commission shall conduct monitoring programmes for each engine category to determine to what extent the emissions measured from the test cycle correspond to the emissions measured in actual operation. Those programmes and their results shall, on a yearly basis, be the subject of a presentation to the Member States and, subsequently, of a communication to the public.

2. The Commission is empowered to adopt delegated acts in accordance with Article 55 for the purpose of supplementing this Regulation with detailed arrangements with regard to the selection of engines, test procedures and reporting of results referred to in paragraph 1 of this Article. Those delegated acts shall be adopted by 31 December 2016.

CHAPTER IV

EU TYPE-APPROVAL PROCEDURES*Article 20***Application for EU type-approval**

1. Manufacturers shall submit a separate application for each engine type or engine family EU type-approval to the approval authority of a Member State, and each application shall be accompanied by the information folder referred to in Article 21. Only one application shall be submitted in respect of a particular engine type or, where applicable, engine family, and it shall be submitted to only one approval authority.

2. Manufacturers shall make available to the technical service responsible for conducting the EU type-approval tests an engine conforming to the engine type or, in the case of an engine family, to the parent engine characteristics described in the information folder referred to in Article 21.

3. In the case of an application for EU type-approval of an engine family, if the approval authority determines that, with regard to the selected parent engine referred to in paragraph 2 of this Article, the application submitted does not fully represent the engine family described in the information folder referred to in Article 21, manufacturers shall make available an alternative and, if necessary, an additional parent engine which is considered by the approval authority to represent the engine family.

4. Within one month of the start of production of the approved engine type or engine family, manufacturers shall submit the initial plan for monitoring in-service engines to the approval authority that granted EU type-approval for that engine type or, where applicable, engine family.

*Article 21***Information folder**

1. The applicant shall provide the approval authority with an information folder which includes the following:

- (a) an information document, including a list of reference fuels and, where requested by the manufacturer, any other specified fuels, fuel mixtures or fuel emulsions referred to in Article 25(2) and described in accordance with the delegated acts referred to in Article 25(4) ('the information document');

- (b) all relevant data, drawings, photographs and other information relating to the engine type or, where applicable, the parent engine;
 - (c) any additional information requested by the approval authority in the context of the EU type-approval application procedure.
2. The information folder may be provided in paper form or in an electronic format that is accepted by the technical service and the approval authority.
3. The Commission may adopt implementing acts laying down templates for the information document and for the information folder. Those implementing acts shall be adopted, by 31 December 2016, in accordance with the examination procedure referred to in Article 56(2).

CHAPTER V

CONDUCT OF EU TYPE-APPROVAL PROCEDURES

Article 22

General provisions

1. The approval authority receiving the application shall grant EU type-approval to all engine types or engine families complying with each of the following:
- (a) the particulars in the information folder;
 - (b) the requirements of this Regulation, and in particular the conformity of production arrangements referred to in Article 26.
2. Where an engine fulfils the requirements laid down in this Regulation, approval authorities shall not impose any other EU type-approval requirements with regard to exhaust emissions for non-road mobile machinery in which such an engine is installed.
3. After the dates for the EU type-approval of engines set out in Annex III for each engine sub-category, approval authorities shall not grant an EU type-approval to an engine type or engine family that does not fulfil the requirements laid down in this Regulation.
4. EU type-approval certificates shall be numbered in accordance with a harmonised system to be laid down by the Commission.
5. By means of IMI, the approval authority shall:
- (a) make available to the approval authorities of the other Member States a list of the EU type-approvals it has granted or, where applicable, extended, within one month of issuing the corresponding EU type-approval certificate;
 - (b) make available without delay to the approval authorities of the other Member States a list of the EU type-approvals it has refused to grant or has withdrawn, together with the reasons for its decision;
 - (c) within one month of receiving a request from the approval authority of another Member State, send that approval authority a copy of the engine type or engine family EU type-approval certificate, where this exists, together with the information package referred to in paragraph 6 for each engine type or engine family which it has approved, refused to approve or the EU type-approval of which it has withdrawn.
6. The approval authority shall put together an information package consisting of the information folder accompanied by the test report and all other documents added by the technical service or by the approval authority to the information folder in the course of carrying out their functions ('the information package').

The information package shall include an index listing its contents, suitably numbered or otherwise marked so as to clearly identify all the pages and the format of each document, in order to present a record of the successive steps in the management of the EU type-approval, in particular the dates of revisions and updating.

The approval authority shall ensure that the information contained in the information package is available for a period of at least 25 years following the end of the validity of the EU type-approval concerned.

7. The Commission may adopt implementing acts laying down:

- (a) the method for establishing the harmonised numbering system referred to in paragraph 4;
- (b) the templates and data structure for the exchange of data referred to in paragraph 5.

Those implementing acts shall be adopted, by 31 December 2016, in accordance with the examination procedure referred to in Article 56(2).

Article 23

Specific provisions concerning the EU type-approval certificate

1. The EU type-approval certificate shall contain the following attachments:

- (a) the information package;
- (b) where applicable, the names and specimen signatures of the persons authorised to sign statements of conformity as referred to in Article 31 and an indication of their position in the company.

2. The Commission shall lay down a template for the EU type-approval certificate.

3. In respect of each engine type or engine family that has been approved, the approval authority shall:

- (a) complete all the relevant sections of the EU type-approval certificate and attach the test report;
- (b) compile the index to the information package;
- (c) issue the completed certificate, together with its attachments, to the applicant without delay.

4. Where an EU type-approval has, in accordance with Article 35, been made subject to restrictions as to its validity or where the engine type or engine family has been exempted from certain requirements of this Regulation, the EU type-approval certificate shall specify those restrictions or exemptions.

5. The Commission may adopt implementing acts laying down the template for the EU type-approval certificate referred to in paragraph 2 of this Article. Those implementing acts shall be adopted, by 31 December 2016, in accordance with the examination procedure referred to in Article 56(2).

Article 24

Tests required for EU type-approval

1. Compliance with the technical prescriptions laid down in this Regulation shall be demonstrated by means of appropriate tests performed by designated technical services. The measurement and test procedures and the specific equipment and tools for the conduct of those tests shall be those laid down in Article 25.

2. The manufacturer shall make available to the approval authority as many engines as are required under the relevant delegated acts for the performance of the required tests.

3. The required tests shall be conducted on engines that are representative of the engine type or, where applicable, of the parent engine of the engine family to be approved.

Notwithstanding the first subparagraph, the manufacturer may, in agreement with the approval authority, select an engine which, although not representative of the engine type or, where applicable, of the parent engine of the engine family to be approved, combines a number of the most unfavourable features with regard to the required level of performance. Virtual testing methods may be used to aid decision-making during the selection process.

4. For the purposes of conducting the EU type-approval tests, the applicable test cycles are those set out in Annex IV. The test cycles applicable to each engine type included in the EU type-approval shall be indicated in the information document.
5. An engine that is representative of the engine type or, where applicable, of the parent engine of the engine family, or an engine selected in accordance with the second subparagraph of paragraph 3, shall be tested on a dynamometer using the applicable non-road steady-state test cycle identified in Tables IV-1 to IV-10 of Annex IV. The manufacturer may choose whether to conduct that test using the discrete-mode or the ramped-modal test method. Except in the cases referred to in paragraphs 7 and 8, a variable-speed engine of a particular category used in a constant-speed operation of the same category need not be tested using the applicable constant-speed steady-state test cycle.
6. In the case of a constant-speed engine with a governor that can be set to an alternative speed, the requirements of paragraph 5 shall be fulfilled at each applicable constant speed and the information document shall indicate the speeds that apply for each engine type.
7. In the case of an engine of category IWP intended to be used for both variable-speed and constant-speed operation, the requirements of paragraph 5 shall be fulfilled for each applicable steady-state test cycle separately and the information document shall indicate each steady-state test cycle in respect of which those requirements were fulfilled.
8. In the case of an engine of category IWP that is intended for use in the place of an engine of category IWA in accordance with Article 4(2), the requirements of paragraph 5 of this Article shall be fulfilled for each applicable steady-state test cycle set out in Tables IV-5 and IV-6 of Annex IV, and the information document shall indicate each steady-state test cycle in respect of which those requirements were fulfilled.
9. Except for engines type-approved pursuant to Article 34(5) and (6), variable-speed engines of category NRE having a net power that is greater than or equal to 19 kW but not more than 560 kW shall, in addition to fulfilling the requirements of paragraph 5 of this Article, also be tested on a dynamometer using the transient test cycle identified in Table IV-11 of Annex IV.
10. Engines of sub-categories NRS-v-2b and NRS-v-3 having a maximum speed of less than or equal to 3 400 rpm shall, in addition to fulfilling the requirements of paragraph 5, also be tested on a dynamometer using the transient test cycle identified in Table IV-12 of Annex IV.
11. The Commission is empowered to adopt delegated acts in accordance with Article 55 supplementing this Regulation by laying down the detailed technical specifications and characteristics of the steady-state and transient test cycles referred to in this Article, including the corresponding method for the determination of the engine load and speed settings. Those delegated acts shall be adopted by 31 December 2016.
12. The Commission may adopt implementing acts laying down the single format of the test report required for EU type-approval. Those implementing acts shall be adopted, by 31 December 2016, in accordance with the examination procedure referred to in Article 56(2).

Article 25

Conduct of measurements and tests for EU type-approval

1. The final exhaust emission test results for engines subject to this Regulation shall be calculated by applying all of the following to the laboratory test results:
 - (a) the emissions of crankcase gases, where required by paragraph 3 and where not already included in the laboratory measurement;
 - (b) any necessary adjustment factor, where required by paragraph 3 and where the engine includes a regenerating exhaust after-treatment system;
 - (c) in respect of all engines, deterioration factors appropriate to the emission durability periods specified in Annex V.

2. The testing of an engine type or engine family to determine whether it meets the emission limits set out in this Regulation shall be carried out by using the following reference fuels or fuel combinations, as appropriate:

- (a) diesel;
- (b) petrol;
- (c) petrol/oil mixture, for two stroke SI engines;
- (d) natural gas/bio methane;
- (e) liquid petroleum gas (LPG);
- (f) ethanol.

The engine type or engine family shall, in addition, meet the exhaust emission limits set out in this Regulation in respect of any other specified fuels, fuel mixtures or fuel emulsions included by a manufacturer in an application for EU type-approval and described in the information folder.

3. As regards the conduct of measurements and tests, the technical requirements shall be met in respect of:

- (a) apparatus and procedures for the conduct of tests;
- (b) apparatus and procedures for emission measurement and sampling;
- (c) methods for data evaluation and calculations;
- (d) methods for establishing deterioration factors;
- (e) in relation to engines in categories NRE, NRG, IWP, IWA, RLR, NRS, NRSh, SMB and ATS complying with Stage V emission limits set out in Annex II:
 - (i) methods for taking account of emissions of crankcase gases;
 - (ii) methods for determining and taking account of continuous or infrequent regeneration of exhaust after-treatment systems;
- (f) in relation to electronically controlled engines in categories NRE, NRG, IWP, IWA, RLL and RLR complying with Stage V emission limits set out in Annex II and using electronic control to determine both the quantity and timing of injecting fuel or using electronic control to activate, de-activate or modulate the emission control system used to reduce NO_x:
 - (i) emission control strategies, and shall include the documentation required to demonstrate those strategies;
 - (ii) NO_x control measures, and shall include the method used to demonstrate those control measures;
 - (iii) the area associated with the relevant non-road steady-state test cycle, within which the amount by which the emissions are permitted to exceed the emission limits set out in Annex II is controlled;
 - (iv) the selection by the technical service of additional measurement points from within the control area during the emission bench test.

4. The Commission is empowered to adopt delegated acts in accordance with Article 55 supplementing this Regulation by setting out:

- (a) the methodology for adapting the emission laboratory test results to include the deterioration factors referred to in point (c) of paragraph 1;
- (b) the technical characteristics of the reference fuels referred to in paragraph 2 and, where applicable, the requirements for the description of any other specified fuels, fuel mixtures or fuel emulsions described in the information folder;
- (c) the detailed technical requirements and characteristics for the conduct of measurements and tests referred to in paragraph 3;

- (d) the method used to measure PN, taking account of the specifications given in the 06 series of UNECE Regulation No. 49;
- (e) the detailed technical requirements applicable to the testing of dual-fuel engines or gaseous-fuelled single-fuel engines referred to in Annex II.

Those delegated acts shall be adopted by 31 December 2016.

Article 26

Conformity of production arrangements

1. An approval authority which has granted an EU type-approval shall take the necessary measures in relation to that EU type-approval to verify, if necessary in cooperation with the approval authorities of the other Member States, that adequate arrangements have been made to ensure that the engines in production will be in conformity with the approved type with respect to the requirements of this Regulation.
2. An approval authority which has granted an EU type-approval shall take the necessary measures in relation to that EU type-approval to verify that statements of conformity issued by the manufacturer comply with Article 31.
3. An approval authority which has granted an EU type-approval shall take the necessary measures in relation to that EU type-approval to verify, if necessary in cooperation with the approval authorities of the other Member States, that the arrangements referred to in paragraph 1 of this Article continue to be adequate in that engines in production will continue to be in conformity with the approved type and that statements of conformity, where applicable, will continue to comply with Article 31.
4. In order to verify the conformity of an engine with the approved type, the approval authority which has granted the EU type-approval may carry out any of the checks or tests required for the EU type-approval on samples taken at the premises of the manufacturer, including at the manufacturer's production facilities.
5. Where an approval authority which has granted an EU type-approval establishes that the arrangements referred to in paragraph 1 are not being applied, deviate significantly from the arrangements agreed as referred to in paragraph 1, have ceased to be applied or are no longer considered to be adequate, even though production is continuing, it shall either take the necessary measures to ensure that the procedure for conformity of production is followed correctly, or shall withdraw the EU type-approval.
6. The Commission is empowered to adopt delegated acts in accordance with Article 55 supplementing this Regulation by laying down the detailed measures to be taken and procedures to be followed by the approval authorities to ensure that the engines in production are in conformity with the approved type. Those delegated acts shall be adopted by 31 December 2016.

CHAPTER VI

AMENDMENTS AND VALIDITY OF EU TYPE-APPROVALS

Article 27

General provisions

1. The manufacturer shall inform the approval authority that granted the EU type-approval of any change in the particulars recorded in the information package, without delay.

In the event of such a change, that approval authority shall decide which of the procedures laid down in Article 28 is to be followed.

Where necessary, the approval authority may decide, after consulting the manufacturer, that a new EU type-approval is to be granted.

2. An application for the amendment of an EU type-approval shall be submitted only to the approval authority that granted the original EU type-approval.

3. If the approval authority finds that, for the purposes of making an amendment, inspections or tests need to be repeated, it shall inform the manufacturer accordingly.

The procedures laid down in Article 28 shall apply only if, on the basis of those inspections or tests, the approval authority concludes that the requirements for EU type-approval continue to be fulfilled.

Article 28

Revisions and extensions of EU type-approvals

1. Where particulars recorded in the information package have been changed, without requiring inspections or tests to be repeated, such an amendment shall be termed a 'revision'.

In the event of such a revision, the approval authority shall, without unjustified delay, revise the relevant pages of the information package as necessary, marking each of them to clearly show the nature of the amendment, and it shall also state the date of revision and include a revised index to the information package. A consolidated, updated version of the information package, accompanied by a detailed description of the amendments, shall be deemed to fulfil the requirement of this paragraph.

2. An amendment as referred to in paragraph 1 shall be termed an 'extension' where the particulars recorded in the information package have been changed and any of the following occurs:

- (a) further inspections or tests are required;
- (b) any information included in the EU type-approval certificate, with the exception of its attachments, has changed;
- (c) a new requirement set out in this Regulation or in a delegated or implementing act adopted pursuant to this Regulation becomes applicable to the approved engine type or engine family.

In the event of an extension, the approval authority shall establish an updated EU type-approval certificate denoted by an extension number that shall be incremented in accordance with the number of successive extensions previously granted. That EU type-approval certificate shall clearly show the reason for the extension and the date of extension.

3. Whenever pages of the information package are amended or a consolidated, updated version is established, the index to the information package attached to the EU type-approval certificate shall be amended accordingly to indicate the date of the most recent extension or revision, or the date of the most recent consolidation of the updated version.

4. No amendment to the EU type-approval of an engine type or engine family shall be required if a new requirement referred to in point (c) of paragraph 2 is, from a technical point of view, irrelevant to that engine type or engine family with regard to its emission performance.

Article 29

Issue and notification of amendments

1. In the event of a revision of an EU type-approval, the approval authority shall issue to the applicant, without unjustified delay, the revised documents or the consolidated, updated version, as appropriate, including the revised index to the information package, as referred to in the second subparagraph of Article 28(1).

2. In the event of an extension of an EU type-approval, the approval authority shall issue to the applicant, without unjustified delay, the updated EU type-approval certificate referred to in the second subparagraph of Article 28(2), including the attachments thereto, and the index to the information package.

3. The approval authority shall, by means of IMI, notify the approval authorities of the other Member States of any amendment made to EU type-approvals, in accordance with Article 22(5).

Article 30

Validity of EU type-approval

1. EU type-approvals shall be issued for an unlimited duration.
2. An EU type-approval of an engine shall become invalid in any of the following cases:
 - (a) where new requirements applicable to the approved engine type or, where applicable, to the engine family become mandatory for its placing on the market and it is not possible to extend or revise the EU type-approval accordingly;
 - (b) where production of the approved engine type or engine family is definitively and voluntarily discontinued;
 - (c) where the validity of the EU type-approval expires by virtue of a restriction, in accordance with Article 35(3);
 - (d) where the EU type-approval has been withdrawn in accordance with Articles 26(5), 39(1) or 40(3).
3. Where the conditions for the validity of an EU type-approval are no longer satisfied in respect of only one engine type within an engine family, the EU type-approval of the engine family in question shall become invalid only in so far as that particular engine type is concerned.
4. Where the production of an engine type or, where applicable, an engine family is definitively discontinued, the manufacturer shall notify the approval authority that granted the corresponding EU type-approval of that discontinuation.

Within one month of receiving that notification, the approval authority that granted the EU type-approval for the engine type or engine family shall inform the approval authorities of the other Member States accordingly.

5. Without prejudice to paragraph 4, where an EU type-approval of an engine type or, where applicable, of an engine family is to become invalid, the manufacturer shall notify the approval authority that granted the corresponding EU type-approval of that fact.

In such cases, the approval authority that granted the EU type-approval shall without delay communicate all relevant information to the approval authorities of the other Member States.

That communication shall specify, in particular, the date of production and the engine identification number of the last engine produced.

6. The notification requirements referred to in paragraphs 4 and 5 shall be deemed to have been fulfilled where the relevant information has been uploaded onto IMI.

CHAPTER VII

STATEMENT OF CONFORMITY AND MARKINGS

Article 31

Statement of conformity

1. The manufacturer, in its capacity as the holder of an engine type or engine family EU type-approval, shall deliver a statement of conformity ('statement of conformity') to accompany engines which are placed on the market, on the basis of:
 - (a) an exemption referred to in Article 34(2), (4), (5), (6), (7) or (8), Article 35(4); or
 - (b) a transitional provision referred to in Article 58(9), (10) or (11).

The statement of conformity shall specify the particular features and restrictions that are to apply to the engine, shall be delivered free of charge together with the engine and shall, where applicable, accompany the non-road mobile machine in which the engine is installed. Its delivery shall not be made dependent on an explicit request or on the submission of additional information to the manufacturer. The statement of conformity may also be delivered in the form of a secure electronic file.

For a period of 10 years after the engine production date, the manufacturer shall, at the request of the end-user, issue a duplicate of the statement of conformity in return for payment of an amount not exceeding the cost of issuing it. The word 'duplicate' shall be clearly visible on any such duplicate statement of conformity.

2. The statement of conformity shall be drawn up in at least one of the official languages of the institutions of the Union.

Any Member State may request from the manufacturer that the statement of conformity be translated into its official language or languages.

3. The person(s) authorised to sign statements of conformity shall belong to the manufacturer's organisation and shall be duly authorised by the management of that organisation to fully engage the legal responsibility of the manufacturer with respect to the design and construction, or with respect to the conformity of production, of the engine.

4. The statement of conformity shall be completed in its entirety and shall not contain any restrictions as regards the use of the engine other than those provided for in this Regulation.

5. The Commission may adopt implementing acts laying down the template for the statement of conformity, including the features aimed at preventing forgery and allowing verification of the secure electronic file. To that end, the implementing acts shall provide the security features used for protecting the statement of conformity. Those implementing acts shall be adopted, by 31 December 2016, in accordance with the examination procedure referred to in Article 56(2).

Article 32

Statutory marking of engines

1. The manufacturer shall affix a marking to each engine manufactured in conformity with the approved type ('the statutory marking').

2. In respect of the following engines, the statutory marking shall include supplementary information indicating that the engine is subject to the relevant exemption or transitional provision:

- (a) engines for export to third countries referred to in Article 34(1) that are manufactured either in the Union or outside the Union and subsequently installed in non-road mobile machinery in the Union;
- (b) engines placed on the market in accordance with Article 34(2), (5), (6) or (8);
- (c) engines temporarily placed on the market in accordance with Article 34(4);
- (d) transition engines placed on the market in accordance with Article 58(5);
- (e) replacement engines placed on the market in accordance with Article 34(7), Article 58(10) or (11).

3. The Commission may adopt implementing acts laying down the template for the statutory marking, including the mandatory essential information required when the engine leaves the production line, the mandatory essential information required before the engine is placed on the market and, where applicable, the supplementary information referred to in paragraph 2 of this Article. Those implementing acts shall be adopted, by 31 December 2016, in accordance with the examination procedure referred to in Article 56(2).

*Article 33***Temporary marking of engines**

1. The manufacturer shall affix a temporary marking to each engine that is manufactured in conformity with the approved type and that is placed on the market on the basis of Article 34(3).
2. An engine that is not yet in conformity with the approved type and that is being delivered to the manufacturer of that engine shall only bear a temporary marking.
3. The Commission may adopt implementing acts laying down the template for the temporary markings referred to in paragraphs 1 and 2 of this Article, including the mandatory essential information that is to be indicated thereon. Those implementing acts shall be adopted, by 31 December 2016, in accordance with the examination procedure referred to in Article 56(2).

CHAPTER VIII

EXEMPTIONS*Article 34***General exemptions**

1. Except as regards point (a) of Article 32(2), engines for export to third countries shall not be subject to this Regulation.
2. Except as regards point (b) of Article 32(2), engines for use by the armed forces shall not be subject to this Regulation.

For the purposes of this paragraph, fire services, civil defence services, forces responsible for maintaining public order and emergency medical services shall not be considered to be part of the armed forces.

3. Without prejudice to Article 32 and with the consent of the OEM, a manufacturer may deliver to that OEM an engine separately from its exhaust after-treatment system.
4. Notwithstanding Article 5(3), Member States shall authorise the temporary placing on the market, for the purposes of field testing, of engines that have not been EU type-approved in accordance with this Regulation.
5. Notwithstanding Articles 18(2) and 22(3), Member States shall grant EU type-approval for, and authorise the placing on the market of, engines that meet the gaseous and particulate pollutant emission limit values for special purpose engines set out in Annex VI, on the condition that the engines are intended for installation in non-road mobile machinery to be used in potentially explosive atmospheres, as defined in point (5) of Article 2 of Directive 2014/34/EU of the European Parliament and of the Council ⁽¹⁾.
6. Notwithstanding Articles 18(2) and 22(3), Member States may, upon request, grant EU type-approval for, and authorise the placing on the market of, engines that meet the gaseous and particulate pollutant emission limit values for special purpose engines set out in Annex VI, on the condition that the engines are intended for installation in non-road mobile machinery that is exclusively used for the launch and recovery of lifeboats operated by a national rescue service.
7. Notwithstanding Articles 5(3) and 18(2), in relation to engines of categories RLL or RLR and placed on the Union market on or before 31 December 2011, Member States may authorise the placing on the market of replacement engines if the approval authority, upon examination, recognises and concludes that the installation of an engine that complies with the applicable emission limits set out in Tables II-7 and II-8 of Annex II will involve significant technical difficulties. In such a case, the replacement engines shall either comply with the emission limits that they would have needed to meet in order to be placed on the Union market on 31 December 2011, or shall comply with more stringent emission limits.

⁽¹⁾ Directive 2014/34/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to equipment and protective systems intended for use in potentially explosive atmospheres (OJ L 96, 29.3.2014, p. 309).

In respect of engines in categories RLL and RLR that were placed on the Union market after 31 December 2011, Member States may authorise the placing on the market of replacement engines complying with the emission limits that the engines to be replaced had to meet when they were originally placed on the Union market.

8. In respect of engines in categories RLL or RLR, Member States may authorise the placing on the market of engines that comply with the latest applicable emission limits defined in the relevant legislation applicable on 5 October 2016, provided that:

- (a) those engines are part of a project which is at an advanced stage of development on 6 October 2016, as defined in Directive 2008/57/EC; and
- (b) the use of engines that comply with the applicable emission limits set out in Tables II-7 or II-8 of Annex II will lead to disproportionate costs.

By 17 September 2017, each Member State shall communicate to the Commission the list of any such projects.

9. The Commission is empowered to adopt delegated acts in accordance with Article 55 for the purpose of supplementing this Regulation with the detailed technical specifications and conditions for:

- (a) the delivery of an engine separately from its exhaust after-treatment system by a manufacturer to an OEM, as referred to in paragraph 3;
- (b) the temporary placing on the market, for the purposes of field testing, of engines that have not been EU type-approved in accordance with this Regulation, as referred to in paragraph 4;
- (c) granting the EU type-approval for, and authorising the placing on the market of, engines that meet the gaseous and particulate pollutant emission limit values for special purpose engines set out in Annex VI, as referred to in paragraphs 5 and 6.

Those delegated acts shall be adopted by 31 December 2016.

Article 35

Exemptions for new technologies or new concepts

1. A manufacturer may apply for an EU type-approval in respect of an engine type or engine family that incorporates new technologies or new concepts and that, as a result of those new technologies or new concepts, is incompatible with one or more requirements of this Regulation.

2. The approval authority shall grant the EU type-approval referred to in paragraph 1 where all of the following conditions are met:

- (a) the application states the reasons why the new technologies or new concepts make the engine type or engine family incompatible with one or more of the requirements of this Regulation;
- (b) the application describes the environmental implications of the new technologies or new concepts and the measures taken in order to ensure a level of environmental protection that is at least equivalent to the level provided by the requirements of this Regulation from which exemption is sought;
- (c) test descriptions and results are presented which prove that the condition in point (b) is met.

3. The granting of the EU type-approval referred to in paragraph 1 shall be subject to authorisation by the Commission.

Where appropriate, the authorisation by the Commission shall specify whether it is subject to any restrictions.

The authorisation shall be given by means of an implementing act.

4. Pending the decision on authorisation by the Commission pursuant to paragraph 3, the approval authority may issue a provisional EU type-approval which shall be valid:

- (a) only in the territory of that Member State;
- (b) only in respect of an engine type or engine family covered by the exemption sought; and
- (c) for at least 36 months.

Where a provisional EU type-approval is issued, the approval authority shall inform the Commission and the other Member States thereof without delay, by means of a file containing the information referred to in paragraph 2.

The provisional nature and the limited territorial validity of such a provisional EU type-approval shall be apparent from the heading of the EU type-approval certificate and the heading of the corresponding statement of conformity.

5. Where an approval authority decides to accept a provisional EU type-approval referred to in paragraph 4 within its territory, it shall inform the relevant approval authority and the Commission thereof in writing.

6. Where the Commission decides not to give the authorisation referred to in paragraph 3 the approval authority shall immediately notify the holder of the provisional EU type-approval referred to in paragraph 4 that the provisional EU type-approval will be revoked six months after the date of the Commission's refusal.

Notwithstanding the Commission's decision not to give the authorisation referred to in paragraph 3, engines manufactured in conformity with the provisional EU type-approval before it ceases to be valid may be placed on the market in any Member State the approval authorities of which accepted the provisional EU type-approval.

7. The requirements referred to in the second subparagraph of paragraph 4 and in paragraph 5 shall be deemed to be fulfilled where the relevant information has been uploaded onto IMI.

8. The Commission may adopt implementing acts laying down the authorisation referred to in paragraph 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56(2).

9. The Commission may adopt implementing acts laying down the harmonised templates for the EU type-approval certificate and the statement of conformity referred to in paragraph 4 of this Article, including their mandatory essential information. Those implementing acts shall be adopted, by 31 December 2016, in accordance with the examination procedure referred to in Article 56(2).

Article 36

Subsequent adaptation of delegated and implementing acts

1. Where the Commission authorises the granting of an exemption pursuant to Article 35, it shall immediately take the steps necessary to adapt the delegated or implementing acts concerned to technological developments.

Where the exemption authorised pursuant to Article 35 relates to a matter that is regulated by a UNECE regulation, the Commission shall propose an amendment to that regulation in accordance with the procedure applicable under the Revised 1958 Agreement.

2. As soon as the relevant delegated or implementing acts referred to in paragraph 1 have been amended, the Commission shall lift any restriction imposed by the decision authorising the exemption.

Where the steps necessary to adapt the delegated or implementing acts have not been taken, the Commission may, at the request of the Member State which granted the provisional EU type-approval, authorise that Member State to extend it by means of a decision in the form of an implementing act adopted in accordance with the examination procedure referred to in Article 56(2).

CHAPTER IX

PRODUCTION REPORTING AND VERIFICATION*Article 37***Obligations of manufacturers with regard to production reporting**

1. The manufacturer shall submit to the approval authority which granted the EU type-approval a list containing the number of engines for each engine type and engine sub-category produced in accordance with this Regulation and in conformity with the EU type-approval since the last production report was submitted, or since the requirements of this Regulation first became applicable.

That list shall be submitted:

- (a) within 45 days following the end of each calendar year;
- (b) immediately after each of the dates for the placing on the market of engines referred to in Annex III; and
- (c) by any other date that the approval authority may stipulate.

2. The list referred to in paragraph 1 shall specify how the identification numbers correlate to the corresponding engine types and, where applicable, engine families and to the EU type-approval numbers where those correlations are not identified by the engine coding system.

3. The list referred to in paragraph 1 shall indicate clearly any case in which the manufacturer ceases to produce an approved engine type or engine family.

4. The manufacturer shall retain a copy of the list referred to in paragraph 1 for a minimum period of 20 years following the end of the validity of the EU type-approval concerned.

5. The Commission may adopt implementing acts laying down the format of the list referred to in paragraph 1 of this Article. Those implementing acts shall be adopted, by 31 December 2016, in accordance with the examination procedure referred to in Article 56(2).

*Article 38***Verification measures**

1. The approval authority of a Member State that granted an EU type-approval shall take the measures necessary to ensure that, where appropriate in cooperation with the approval authorities of the other Member States, the identification numbers relating to the EU type-approval are correctly allocated to, and are properly used by, manufacturers before the type-approved engine is placed or made available on the market.

2. An additional verification of the identification numbers may be carried out in conjunction with the control of conformity of production laid down in Article 26.

3. With regard to the verification of the identification numbers, the manufacturer or the manufacturer's representative shall, upon request, provide without delay to the responsible approval authority the information required concerning the manufacturer's purchasers, together with the identification numbers of the engines reported as produced in accordance with Article 37. Where engines are made available to an OEM, no additional information shall be required of the manufacturer.

4. If, further to a request from the approval authority, the manufacturer is unable to demonstrate compliance with the statutory marking requirements, the approval authority may withdraw the EU type-approval granted in respect of the corresponding engine type or engine family. The approval authorities shall inform each other within one month of any EU type-approval having been withdrawn and of the reasons for that withdrawal, in accordance with Article 22(5).

CHAPTER X

SAFEGUARD CLAUSES

*Article 39***Engines not in conformity with the approved type**

1. Where engines bearing a statutory marking and, where applicable, accompanied by a statement of conformity are not in conformity with the approved engine type or engine family, the approval authority which granted the EU type-approval shall take the necessary measures to ensure that the engines in production are brought into conformity with the approved engine type or engine family. Such measures may include the withdrawal of the EU type-approval if the remedial action taken by the manufacturer is inadequate.

The relevant approval authority shall inform the approval authorities of the other Member States of the measures taken.

2. For the purposes of paragraph 1, deviations from the particulars set out in the EU type-approval certificate or in the information package, where those deviations have not been authorised in accordance with Chapter VI, shall be deemed to constitute a failure to conform to the approved engine type or engine family.

3. Where an approval authority finds that engines accompanied by a statement of conformity, if applicable, or bearing a type-approval mark issued in another Member State are not in conformity with the approved engine type or engine family, it may request that the approval authority which granted the EU type-approval verify that the engines in production continue to conform to the approved engine type or engine family. On receipt of such a request, the approval authority which granted the EU type-approval shall take the action referred to in paragraph 1 as soon as possible, and at the latest within three months of the date of the request.

4. The approval authorities shall inform each other within one month of any EU type-approval having been withdrawn and of the reasons for that withdrawal, in accordance with Article 22(5).

5. Where the approval authority that granted the EU type-approval disputes the non-conformity of which it is notified, the Member States concerned shall endeavour to settle the dispute.

The approval authority shall keep the Commission informed thereof and, where necessary, the Commission shall hold appropriate consultations with a view to reaching a settlement.

*Article 40***Recall of engines**

1. Where a manufacturer that has been granted an EU type-approval is obliged, pursuant to Article 20(1) of Regulation (EC) No 765/2008, to recall engines placed on the market, whether or not the engines are installed in non-road mobile machinery, on the basis that the engines represent a serious risk with regard to the protection of the environment or public health, that manufacturer shall:

- (a) immediately inform the approval authority that granted the EU type-approval; and
- (b) propose a set of appropriate remedies to address the serious risk to that approval authority.

2. The approval authority shall communicate the proposed remedies to the approval authorities of the other Member States and to the Commission without delay.

The approval authorities shall ensure that the remedies are effectively implemented in their respective Member States.

3. Where an approval authority considers that the remedies are insufficient or have not been implemented quickly enough, it shall, without delay, inform the approval authority that granted the EU type-approval thereof.

Where the manufacturer does not subsequently propose and implement effective corrective measures, the approval authority which granted the EU type-approval shall take all protective measures required, including the withdrawal of the EU type-approval.

In the case of withdrawal of the EU type-approval, the approval authority shall, within one month of that withdrawal, notify the manufacturer, the approval authorities of the other Member States and the Commission thereof by registered letter or equivalent electronic means.

Article 41

Notification of decisions and remedies available

1. Decisions of the following type or for the following purpose shall state the reasons on which they are based:
 - (a) taken pursuant to this Regulation;
 - (b) refusing or withdrawing an EU type-approval;
 - (c) requiring the recall of an engine from the market;
 - (d) prohibiting, restricting or impeding the placing on the market of an engine; or
 - (e) prohibiting, restricting or impeding the placing on the market of non-road mobile machinery in which an engine falling within the scope of this Regulation is installed.
2. The approval authorities shall notify the party concerned of:
 - (a) any decision referred to in paragraph 1;
 - (b) the remedies available to it under the laws in force in the Member State concerned and of the time limits applicable to those remedies.

CHAPTER XI

INTERNATIONAL REGULATIONS AND PROVISION OF TECHNICAL INFORMATION

Article 42

Acceptance of equivalent engine type-approvals

1. The Union may, in the framework of multilateral or bilateral agreements between the Union and third countries, acknowledge the equivalence between the conditions and provisions for EU type-approval of engines established by this Regulation and the procedures established by international regulations or regulations of third countries.
2. Type-approvals granted and statutory markings that are in conformity with UNECE regulations, or amendments thereto, which the Union has voted in favour of or to which the Union has acceded as set out in the delegated act referred to in point (a) of paragraph 4, shall be recognised as being equivalent to the EU type-approvals granted and statutory marking required in accordance with this Regulation.
3. EU type-approvals granted on the basis of Union acts as listed in the delegated act referred to in point (b) of paragraph 4 shall be recognised as being equivalent to the EU type-approvals granted in accordance with this Regulation.
4. The Commission is empowered to adopt delegated acts in accordance with Article 55 supplementing this Regulation by setting out:
 - (a) the list of UNECE regulations, or amendments thereto, including any requirements set out therein which relate to their application, which the Union has voted in favour of or to which the Union has acceded, and which are to apply to EU type-approval of engine types and engine families to be installed in non-road mobile machinery;
 - (b) the list of Union acts pursuant to which EU type-approvals are granted, including any requirements set out therein which relate to their application.

Those delegated acts shall be adopted by 31 December 2016.

Article 43

Information and instructions intended for OEMs and end-users

1. A manufacturer shall not supply to OEMs or end-users any technical information related to the particulars provided for in this Regulation which diverges from the particulars approved by the approval authority.
2. The manufacturer shall make available to OEMs all relevant information and instructions that are necessary for the correct installation of an engine in non-road mobile machinery, including a description of any special conditions or restrictions linked to the installation or use of the engine.
3. The manufacturer shall make available to OEMs all relevant information and necessary instructions intended for the end-user, including a description of any special conditions or restrictions linked to the use of an engine.
4. Manufacturers shall make available to OEMs the value of the carbon dioxide (CO₂) emissions determined during the EU type-approval process and shall instruct the OEMs to communicate that information, together with explanatory information on the test conditions, to the end-user of the non-road mobile machinery in which the engine is intended to be installed.
5. The Commission is empowered to adopt delegated acts in accordance with Article 55 supplementing this Regulation by setting out the details of the information and instructions referred to in paragraphs 2, 3 and 4 of this Article. Those delegated acts shall be adopted by 31 December 2016.

Article 44

Exchange of data and information via IMI

1. The exchange of data and information relating to EU type-approvals between national authorities, or between national authorities and the Commission, within the framework of this Regulation shall be in electronic format via IMI.
2. Any relevant information relating to EU type-approvals granted in accordance with this Regulation shall be gathered centrally and made accessible to the national authorities and to the Commission via IMI.
3. The Commission shall ensure that IMI also:
 - (a) makes possible the exchange of data and information between manufacturers or technical services, on the one hand, and national authorities or the Commission, on the other;
 - (b) provides public access to certain data and information relating to the results of type-approvals and monitoring results of in-service engines;
 - (c) where appropriate and technically and economically feasible, and in agreement with the Member States concerned, provides facilities for the automatic transfer of data between existing national databases and IMI.
4. The uses of IMI referred to in paragraph 3 shall be optional.
5. The Commission may adopt implementing acts laying down the detailed technical requirements and procedures necessary for the interconnection of IMI with existing national databases as referred to in point (c) of paragraph 3 of this Article. Those implementing acts shall be adopted, by 31 December 2016, in accordance with the examination procedure referred to in Article 56(2).

CHAPTER XII

DESIGNATION AND NOTIFICATION OF TECHNICAL SERVICES

*Article 45***Requirements relating to technical services**

1. A technical service shall be designated by an approval authority in accordance with Article 47 and shall fulfil the requirements laid down in paragraphs 2 to 9 of this Article.
2. A technical service shall be established under the national law of a Member State and have legal personality.
3. The technical service shall be a third-party body independent of the process of design, manufacture, supply or maintenance of the engines it assesses.

A body belonging to a business association or professional federation representing undertakings involved in the design, manufacture, provision, assembly, installation, use or maintenance of the engines it assesses, tests or inspects may, provided that it demonstrates its independence and the absence of any conflict of interest, be considered to fulfil the requirements of the first subparagraph.

4. The technical service, including its top-level management and the personnel responsible for carrying out the categories of activities for which the technical service is designated in accordance with Article 47(1), shall not be the designer, manufacturer, supplier, installer or maintainer of the engines which it assesses, and shall not represent parties engaged in those activities. This restriction shall not preclude the use of assessed engines referred to in paragraph 3 of this Article that are necessary for the operation of the technical service, or the use of such engines for personal purposes.

The technical service shall ensure that the activities of its subsidiaries or subcontractors do not affect its confidentiality, objectivity or impartiality in relation to the categories of activities for which it has been designated.

5. The technical service shall carry out the categories of activities for which it has been designated with the highest degree of professional integrity and the requisite technical competence in the specific field, and its personnel shall be free from any pressure or inducements, particularly financial, which might influence its judgment or the results of its assessment activities, especially such pressure or inducements emanating from persons or groups of persons with an interest in the results of those activities.
6. The technical service shall demonstrate to its designating approval authority that it is capable of carrying out all the categories of activities for which it is seeking to be designated in accordance with Article 47(1), by ensuring that it has:
 - (a) personnel with appropriate skills and specific technical knowledge and vocational training as well as sufficient and appropriate experience to perform the task;
 - (b) descriptions of the procedures relevant to the categories of activities for which it is seeking to be designated, thereby ensuring the transparency and reproducibility of those procedures;
 - (c) procedures for the performance of the categories of activities for which it is seeking to be designated, which take due account of the degree of complexity of the technology of the engine in question and of whether the engine is manufactured pursuant to a mass or serial production process; and
 - (d) the means necessary to perform in an appropriate manner the tasks connected with the categories of activities for which it is seeking to be designated and that it has access to all the necessary equipment or facilities.
7. The technical service, including its top-level management and the assessment personnel, shall be impartial and shall not engage in any activity that could conflict with their independence of judgment or integrity in relation to the categories of activities for which the technical service is designated.

8. The technical service shall take out liability insurance covering its activities, unless liability is assumed by the Member State in accordance with national law or the Member State is itself directly responsible for the assessment.

9. The personnel of a technical service shall be bound by professional secrecy with regard to all information obtained in carrying out their tasks under this Regulation or any provision of national law giving effect to it.

The personnel of a technical service shall not be bound by the obligation referred to in the first subparagraph in respect of the sharing of information with the designating approval authority, or where such sharing is required by Union or national law.

Proprietary rights shall be protected.

Article 46

Subsidiaries of and subcontracting by technical services

1. The technical service may, only with the agreement of their designating approval authority, subcontract specific tasks connected with the categories of activities for which it has been designated in accordance with Article 47(1), or have those activities carried out by a subsidiary.

In such cases, the technical service shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 45 and shall inform the designating approval authority accordingly.

2. The technical service shall take full responsibility for the tasks performed by any of its subcontractors or subsidiaries, irrespective of their place of establishment.

3. The technical service shall keep at the disposal of the designating approval authority the relevant documents concerning the assessment of the qualifications of the subcontractor or the subsidiary and the tasks performed by them.

Article 47

Designation of technical services

1. Approval authorities shall designate technical services for one or more of the following categories of activities, in accordance with their fields of competence:

- (a) category A: carrying out the tests referred to in this Regulation in the facilities belonging to the technical service in question;
- (b) category B: supervising the tests referred to in this Regulation, where such tests are performed in the facilities of a manufacturer or of a third party;
- (c) category C: assessing and monitoring on a regular basis the manufacturer's procedures for ensuring the conformity of production;
- (d) category D: supervising or performing tests or inspections for ensuring the conformity of production.

2. An approval authority may act as a technical service for one or more of the categories of activities referred to in paragraph 1.

3. Technical services of a third country, other than those designated in accordance with this Article, may be the subject of a notification pursuant to Article 50 where such a recognition of technical services is provided for by a bilateral agreement concluded between the Union and the third country concerned.

However, a technical service established in accordance with Article 45(2) may establish subsidiaries in third countries, provided that the subsidiaries are directly managed and controlled by that technical service.

Article 48

Procedures for performance standards and assessment of technical services

The Commission is empowered to adopt delegated acts in accordance with Article 55 supplementing this Regulation by laying down:

- (a) the standards with which the technical services have to comply; and
- (b) the procedure for the assessment of the technical services, including the corresponding report, in accordance with Article 49.

Article 49

Assessment of the skills of technical services

1. The designating approval authority shall draw up an assessment report demonstrating that the candidate technical service has been assessed for its compliance with this Regulation and the delegated acts adopted pursuant to it. The assessment report may include a certificate of accreditation issued by a national accreditation body attesting that the technical service fulfils the requirements of this Regulation.

The assessment on which the assessment report is based shall be conducted in accordance with the provisions laid down in a delegated act referred to in Article 48.

2. The designating approval authority shall review the assessment report at least once every three years.
3. The designating approval authority shall communicate the assessment report to the Commission upon the latter's request. In such cases, where the assessment is not based on an accreditation certificate issued by a national accreditation body, the designating approval authority shall provide the Commission with documentary evidence which attests to the following:
 - (a) the technical service's competence;
 - (b) the arrangements in place to ensure that the technical service is monitored regularly by the designating approval authority; and
 - (c) that the technical service fulfils the requirements of this Regulation and of the delegated acts adopted pursuant to it.
4. An approval authority that intends to act as a technical service in accordance with Article 47(2) shall document compliance by means of an assessment conducted by auditors independent of the activity being assessed. Such auditors may be from the same organisation, provided that they are managed separately from the personnel undertaking the assessed activity.

Article 50

Procedures for notification

1. In respect of each technical service that they have designated, Member States shall notify the Commission of the following:
 - (a) the name of the technical service;

- (b) the address, including electronic address;
- (c) the responsible persons;
- (d) the category of activities; and
- (e) any modifications relating to the designation referred to in Article 47.

2. A technical service may only conduct the activities referred to in Article 47(1) on behalf of the designating approval authority if that technical service has been notified beforehand to the Commission in accordance with paragraph 1 of this Article.

3. The same technical service may be designated by several designating approval authorities and notified by the Member States of those designating approval authorities irrespective of the category or categories of activities it is to conduct in accordance with Article 47(1).

4. Where a specific organisation or competent body carrying out an activity not included in Article 47(1) needs to be designated in application of a delegated act, the Member States concerned shall notify the Commission in accordance with this Article.

5. The Commission shall publish on its website a list and details of the technical services which have been the subject to a notification in accordance with this Article.

Article 51

Changes to designations

1. Where a designating approval authority has ascertained or has been informed that a technical service designated by it either no longer fulfils the requirements laid down in this Regulation or is failing to meet its obligations, it shall restrict, suspend or revoke the designation, as appropriate, depending on the seriousness of the failure to fulfil those requirements or meet those obligations.

The Member State that has provided the Commission with notification of that technical service in accordance with Article 50(1) shall immediately inform the Commission of any such restriction, suspension or revocation.

The Commission shall modify the published information referred to in Article 50(5) accordingly.

2. In the event of the restriction, suspension or revocation of the designation referred to in paragraph 1, or where the technical service has ceased its activity, the designating approval authority shall take appropriate steps to ensure that the files of that technical service are either processed by another technical service or kept available for the designating approval authority or for the market surveillance authorities at their request.

Article 52

Challenge to the competence of technical services

1. The Commission shall investigate all cases where it has doubts, or where doubts are brought to its attention, as to the competence of a technical service or the continued fulfilment by a technical service of the requirements and responsibilities to which it is subject.

2. The Member State of the designating approval authority shall, upon request, provide the Commission with all information relating to the basis for the designation or the maintenance of the designation of the technical service concerned.

3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.

4. Where the Commission ascertains that a technical service does not fulfil or no longer fulfils the requirements for its designation, it shall inform the Member State of the designating approval authority accordingly with a view to establishing, in cooperation with that Member State, the corrective measures necessary and shall request that that Member State take those corrective measures, including the revocation of the designation if necessary.

Article 53

Operational obligations of technical services

1. Technical services shall carry out the categories of activities for which they have been designated on behalf of the designating approval authority and in accordance with the assessment and test procedures provided for in this Regulation and its delegated and implementing acts.

Technical services shall supervise or shall themselves carry out the tests required for EU type-approval or inspections as set out in this Regulation or in one of its delegated or implementing acts, unless alternative procedures are permitted.

Technical services shall not conduct tests, assessments or inspections for which they have not been designated.

2. Technical services shall at all times:

- (a) allow the designating approval authority to observe them conducting their assessments, if deemed appropriate by that authority; and
- (b) without prejudice to Article 45(9) and Article 54, provide the designating approval authority with such information as may be requested on the categories of activities which they carry out and which fall within the scope of this Regulation.

3. Where a technical service finds that the requirements laid down in this Regulation have not been fulfilled by a manufacturer, it shall report that fact to the designating approval authority, which shall, in turn, require the manufacturer to take appropriate corrective measures.

The designating approval authority shall not issue an EU type-approval certificate until the manufacturer has taken the appropriate corrective measures to the satisfaction of that approval authority.

4. Where, in the course of monitoring conformity of production following the issue of an EU type-approval certificate, a technical service acting on behalf of the designating approval authority finds that an engine type or engine family no longer complies with this Regulation, it shall report that fact to the designating approval authority.

The approval authority shall take the appropriate measures as provided for in Article 26.

Article 54

Information obligations of technical services

1. Technical services shall inform their designating approval authority of any:

- (a) non-conformity which might require a refusal, restriction, suspension or withdrawal of an EU type-approval;
- (b) circumstances affecting the scope of, or conditions for, their designation;
- (c) request for information from market surveillance authorities regarding their activities.

2. Upon request from their designating approval authority, technical services shall provide information on the activities within the scope of their designation and on any other activity performed, including cross-border activities and subcontracting.

CHAPTER XIII

DELEGATED ACTS AND IMPLEMENTING ACTS*Article 55***Exercise of the delegation**

1. The power to adopt the 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 19(2), Article 24(11), Article 25(4), Article 26(6), Article 34(9), Article 42(4), Article 43(5) and Article 48 shall be conferred on the Commission for a period of five years from 6 October 2016.
3. The delegation of power referred to in Article 19(2), Article 24(11), Article 25(4), Article 26(6), Article 34(9), Article 42(4), Article 43(5) and Article 48 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 19(2), Article 24(11), Article 25(4), Article 26(6), Article 34(9), Article 42(4), Article 43(5) and Article 48 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 56***Committee procedure**

1. The Commission shall be assisted by the 'Technical Committee — Motor Vehicles' (TCMV) established by Article 40(1) of Directive 2007/46/EC. 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.
3. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

CHAPTER XIV

FINAL PROVISIONS*Article 57***Penalties**

1. Member States shall provide for penalties for infringement of this Regulation, and of the delegated or implementing acts adopted pursuant to this Regulation, by economic operators or OEMs. The penalties provided for shall be effective, proportionate and dissuasive.

Member States shall notify the Commission of those provisions by 7 October 2018 and shall notify the Commission without delay of any subsequent amendments affecting them.

Member States shall take all measures necessary to ensure that the penalties are implemented.

2. Infringements subject to a penalty shall include:

- (a) making false declarations, in particular during the EU type-approval procedures, the procedures leading to a recall or the procedures relating to exemptions;
- (b) falsifying test results in relation to an EU type-approval or the monitoring of in-service engines;
- (c) withholding data or technical specifications which could lead to the recall of engines, or to the refusal or the withdrawal of an EU type-approval;
- (d) using defeat strategies;
- (e) refusing to provide access to information;
- (f) placing on the market engines subject to EU type-approval without EU type-approval, or falsifying documents or statutory markings with the intention of doing so;
- (g) placing on the market transition engines and non-road mobile machinery in which such engines are installed in violation of the exemption provisions;
- (h) being in violation of the restrictions set out in Article 35(3) and (4);
- (i) placing on the market an engine modified in such a way that it is no longer in conformity with the specifications of its EU type-approval;
- (j) installing an engine in non-road mobile machinery for a use other than the exclusive use provided for in Article 4;
- (k) placing on the market a special purpose engine under Article 34(5) or (6) for use in non-road mobile machinery other than that provided for in those paragraphs;
- (l) placing on the market an engine under Article 34(7) or (8) and Article 58(9), (10) or (11) for use in machinery other than that provided for in those paragraphs;
- (m) placing on the market non-road mobile machinery in which engines subject to EU type-approval under this Regulation are installed, without such approval;
- (n) placing on the market non-road mobile machinery that is in violation of a restriction regarding non-road mobile machinery set out in Article 34(8).

Article 58

Transitional provisions

1. Without prejudice to Chapters II and III, this Regulation shall not invalidate, before the dates for placing on the market of engines set out in Annex III, any EU type-approval or exemption.

2. Approval authorities may, in accordance with the relevant legislation applicable on 5 October 2016, continue to grant EU type-approvals until the mandatory dates for the EU type-approval of engines set out in Annex III and continue to grant exemptions in accordance with that legislation until the mandatory dates for the placing on the market of engines set out in Annex III.

Member States may, in accordance with the relevant legislation applicable on 5 October 2016 continue to permit the placing on the market of engines until the mandatory dates for the placing on the market of engines set out in Annex III.

3. By way of derogation from this Regulation, engines which have received an EU type-approval pursuant to the relevant legislation applicable on 5 October 2016, or which meet the requirements set out by the Central Commission for the Navigation of the Rhine (CCNR) and adopted as CCNR Stage II, in the framework of the Revised Convention for Rhine Navigation, may continue to be placed on the market until the dates for the placing on the market of engines set out in Annex III.

In such cases, national authorities shall not prohibit, restrict or impede the placing on the market of engines complying with the approved type.

4. Engines which on 5 October 2016 did not fall within the scope of Directive 97/68/EC may continue to be placed on the market on the basis of the national rules in force, if any, until the dates for the placing on the market of engines set out in Annex III.

5. Without prejudice to Article 5(3), Article 18(2) and, where applicable, Directive 2008/57/EC and Commission Regulation (EU) No 1302/2014 ⁽¹⁾, transition engines and, where applicable, the non-road mobile machinery in which those transition engines are installed may continue to be placed on the market during the transition period provided that the machinery in which the transition engine is installed has a production date not later than 18 months following the start of the transition period.

For engines of category NRE, Member States shall authorise the extension of the transition period and of the 18-month period referred to in the first subparagraph by an additional 12 months for OEMs with a total yearly production of less than 100 units of non-road mobile machinery equipped with internal combustion engines. For the purposes of the calculation of that total yearly production, all OEMs under the control of the same natural or legal person shall be considered to be a single OEM.

For engines of category NRE used in mobile cranes, the transition period and the 18-month period referred to in the first subparagraph shall be extended by 12 months.

For engines of category NRS with an engine power of less than 19 kW used in snow throwers, the transition period and the 18-month period referred to in the first subparagraph shall be extended by 24 months.

6. Subject to paragraph 5 of this Article, transition engines shall meet at least one of the following requirements:

- (a) be in conformity with engine types or engine families the EU type-approval of which is no longer valid pursuant to point (a) of Article 30(2), and are, on the engines' production dates, covered by a valid EU type-approval that is in compliance with the latest applicable emission limits defined in the relevant legislation applicable on 5 October 2016.
- (b) belong to a power range that was not subject to pollutant emission type-approval at Union level on 5 October 2016; or
- (c) be used or intended to be used in an application that was not subject to pollutant emission related type-approval at Union level on 5 October 2016.

7. The period for placing transition engines on the market shall be limited to:

- (a) 24 months from the applicable date for the placing on the market of engines set out in Annex III, in the case set out in the first subparagraph of paragraph 5;
- (b) 36 months from the applicable date for the placing on the market of engines set out in Annex III, in the case set out in the second and third subparagraphs of paragraph 5;
- (c) 48 months from the applicable date for the placing on the market of engines set out in Annex III, in the case set out in the fourth subparagraph of paragraph 5.

8. Manufacturers shall ensure that transition engines placed on the market during the transition period comply with the marking referred to in point (d) of Article 32(2).

⁽¹⁾ Commission Regulation (EU) No 1302/2014 of 18 November 2014 concerning a technical specification for interoperability relating to the 'rolling stock — locomotives and passenger rolling stock' subsystem of the rail system in the European Union (OJ L 356, 12.12.2014, p. 228).

9. Notwithstanding Article 5(3), Article 18(2) and Article 22, Member States may, for a period that ends no later than 17 September 2026 authorise the placing on the market of engines of category RLL with a maximum net power greater than 2 000 kW that do not comply with the emission limits set out in Annex II to be installed in locomotives which only run on a technically isolated 1 520 mm railway network. During that period, the engines placed on the market shall, as a minimum, comply with the emission limits that engines had to meet to be placed on the market on 31 December 2011. The approval authorities of the Member States shall grant EU type-approval and shall authorise the placing on the market of such engines.

10. Notwithstanding Articles 5(3) and 18(2), Member States shall authorise the placing on the market of replacement engines, for a period not longer than 15 years, starting from the applicable dates for the placing on the market of Stage V engines set out in Annex III, provided that the engines belong to a category equivalent to NRS with a reference power no less than 19 kW, or belong to a category equivalent to NRG, where the replacement engine and the original engine belong to an engine category or power range that was not subject to type-approval at Union level on 31 December 2016.

11. Notwithstanding Articles 5(3) and 18(2), Member States shall authorise the placing on the market of replacement engines, for a period not longer than 20 years, starting from the applicable dates for the placing on the market of Stage V engines set out in Annex III, provided that the engines:

- (a) belong to category NRE with a reference power no less than 19 kW and no greater than 560 kW, and comply with an emission stage that expired not more than 20 years before the placing on the market of those engines and that is at least as stringent as the emission limits that the engine to be replaced had to meet when it was placed on the market originally;
- (b) belong to a category equivalent to NRE and with a reference power greater than 560 kW, where the replacement engine and the original engine belong to an engine category or power range that was not subject to type-approval at Union level on 31 December 2016.

12. Member States may decide not to apply this Regulation, for a period ending no later than 17 September 2026 to engines installed in cotton harvesting machinery.

13. Manufacturers shall ensure that replacement engines comply with the marking referred to in point (e) of Article 32(2).

Article 59

Report

1. By 31 December 2021, Member States shall inform the Commission of the application of the EU type-approval procedures laid down in this Regulation.
2. By 31 December 2022, on the basis of the information supplied under paragraph 1, the Commission shall submit a report to the European Parliament and to the Council on the application of this Regulation.

Article 60

Review

1. By 31 December 2018, the Commission shall submit a report to the European Parliament and to the Council regarding the assessment of the possibility of laying down harmonised measures for the installation of retrofit emission control devices in engines in non-road mobile machinery that has already been placed on the Union market. That report shall also address technical measures and financial incentive schemes as a means of helping Member States to comply with Union air quality legislation, by assessing possible action against air pollution in densely populated areas, and with due respect for the Union rules on state aid.
2. By 31 December 2020, the Commission shall submit a report to the European Parliament and to the Council regarding:
 - (a) the assessment of further pollutant emission reduction potential, on the basis of available technologies and a cost-benefit analysis.

In particular, for engines of categories IWP and IWA, the assessment of the technological and economic feasibility of:

- (i) a further reduction in the emission limit value for PN and NO_x emissions;
 - (ii) a further reduction in the A-factor for fully and partially gaseous-fuelled engines in the framework of a climate-neutral operation compared to diesel-fuelled engines; and
 - (iii) the addition of PN limit values to those engine categories for which such values have not been set out in Annex II to this Regulation;
- (b) the identification of potentially relevant pollutant types that do not fall within the scope of this Regulation.

3. By 31 December 2025, the Commission shall submit a report to the European Parliament and to the Council regarding the use of the exemption clauses provided for in Article 34(4) and (5), and the monitoring of the results of the emission tests set out in Article 19 and the conclusions thereof.

In addition, the report shall evaluate the tests required for EU type-approval as set out in Articles 24 and 25, with a particular focus on the extent to which those tests correspond to real engine operation conditions, and it shall also evaluate the feasibility of introducing tests for particulate pollutant emissions as part of the in-service testing set out in Article 19.

4. The reports referred to in paragraphs 2 and 3 shall:

- (a) be based on consultation with the relevant stakeholders;
- (b) take into account existing related Union and international standards; and
- (c) be accompanied, where appropriate, by legislative proposals.

Article 61

Amendments to Directive 97/68/EC

Directive 97/68/EC is amended as follows:

(1) in Article 9(4a), the following subparagraphs are added:

‘By way of derogation from the first subparagraph, Member States may authorise, on request by an OEM, the placing on the market of engines that meet Stage III A emission limit values, provided that those engines are intended for installation in non-road mobile machinery to be used in potentially explosive atmospheres, as defined in point (5) of Article 2 of Directive 2014/34/EU of the European Parliament and of the Council (*).

Manufacturers shall provide the approval authority with evidence that the engines are installed exclusively in non-road mobile machinery certified as fulfilling those requirements. A label bearing the text “Engine for restricted use in machinery manufactured by”, followed by the name of the OEM and the unique reference of the associated derogation shall be affixed to any such engines, beside the engine statutory marking set out in section 3 of Annex I.

By way of derogation from the first subparagraph, Member States may grant EU type-approval and authorise the placing on the market of engines of category RLL with a maximum net power greater than 2 000 kW that do not comply with the emission limits set out in Annex II, that are to be installed in locomotives which only run on a technically isolated 1 520 mm railway network. Those engines shall, as a minimum, comply with the emission limits that engines had to meet to be placed on the market on 31 December 2011.

(*) Directive 2014/34/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to equipment and protective systems intended for use in potentially explosive atmospheres (OJ L 96, 29.3.2014, p. 309).;

(2) in Article 10, the following paragraph is added:

‘8. Member States may decide not to apply this Directive to engines installed in cotton harvesting machinery.’.

Article 62

Amendment to Regulation (EU) No 1024/2012

In the Annex to Regulation (EU) No 1024/2012, the following point is added:

‘9. Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive 97/68/EC (*): Article 44.

(*) OJ L 252, 16.9.2016, p. 53’.

Article 63

Amendment to Regulation (EU) No 167/2013

Article 19 of Regulation (EU) No 167/2013 is amended as follows:

(1) paragraph 3 is replaced by the following:

‘3. The provisions on engine categories, exhaust emission limits, test cycles, emission durability periods, exhaust emission requirements, the monitoring of emissions of in-service engines and the conduct of measurements and tests, as well as the transitional provisions and provisions allowing the early EU type-approval and the placing on the market of Stage V engines laid down for non-road mobile machinery in Regulation (EU) 2016/1628 of the European Parliament and of the Council (*) and the delegated and implementing acts adopted pursuant thereto shall apply.

For the purposes of the placing on the market, registration or entry into service of tractors of categories T2, T4.1 and C2, the engines in the power range 56-130 kW meeting the Stage III B requirements shall be considered to be transition engines as defined in point (32) of Article 3 of Regulation (EU) 2016/1628.

(*) Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive 97/68/EC (OJ L 252, 16.9.2016, p. 53)’;

(2) in paragraph 6, the following subparagraph is added:

‘By way of derogation from the principle set out in the second subparagraph, the Commission shall be empowered to amend, by 31 December 2016, Commission Delegated Regulation (EU) 2015/96 (*), so that:

- (a) for the purposes of EU type-approval for tractors of categories T2, T4.1 and C2, the period of postponement set out in Article 11(4) of Delegated Regulation (EU) 2015/96 is four years; and
- (b) under the flexibility scheme referred to in Article 14 of Delegated Regulation (EU) 2015/96, the flexibility allowed pursuant to point 1.1.1 of Annex V to that Delegated Regulation is increased to 150 % for tractors of categories T2, T4.1 and C2.

(*) Commission Delegated Regulation (EU) 2015/96 of 1 October 2014 supplementing Regulation (EU) No 167/2013 of the European Parliament and of the Council as regards environmental and propulsion unit performance requirements of agricultural and forestry vehicles (OJ L 16, 23.1.2015, p. 1)’.

*Article 64***Repeal**

1. Without prejudice to Article 58(1) to (4) of this Regulation, Directive 97/68/EC is repealed with effect from 1 January 2017.
2. References to the repealed Directive shall be construed as references to this Regulation.

*Article 65***Entry into force and application**

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. This Regulation shall apply from 1 January 2017, with the exception of Article 61, which shall apply from 6 October 2016.

From 6 October 2016, approval authorities shall not refuse to grant EU type-approval for a new engine type or engine family nor prohibit its placing on the market where that engine type or engine family complies with Chapters II, III, IV and VIII and the delegated and implementing acts adopted pursuant to this Regulation.

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

Done at Strasbourg, 14 September 2016.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
I. KORČOK

ANNEX I

Definition of engine sub-categories referred to in Article 4

Table I-1: Sub-categories of engine category NRE defined in point (1) of Article 4(1)

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	Reference power
NRE	CI	variable	$0 < P < 8$	NRE-v-1	Maximum net power
	CI		$8 \leq P < 19$	NRE-v-2	
	CI		$19 \leq P < 37$	NRE-v-3	
	CI		$37 \leq P < 56$	NRE-v-4	
	all		$56 \leq P < 130$	NRE-v-5	
			$130 \leq P \leq 560$	NRE-v-6	
			$P > 560$	NRE-v-7	
	CI	constant	$0 < P < 8$	NRE-c-1	Rated net power
	CI		$8 \leq P < 19$	NRE-c-2	
	CI		$19 \leq P < 37$	NRE-c-3	
	CI		$37 \leq P < 56$	NRE-c-4	
	all		$56 \leq P < 130$	NRE-c-5	
			$130 \leq P \leq 560$	NRE-c-6	
			$P > 560$	NRE-c-7	

Table I-2: Sub-categories of engine category NRG defined in point (2) of Article 4(1)

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	Reference power
NRG	all	variable	$P > 560$	NRG-v-1	Maximum net power
		constant	$P > 560$	NRG-c-1	Rated net power

Table I-3: Sub-categories of engine category NRSh defined in point (3) of Article 4(1)

Category	Ignition type	Speed operation	Power range (kW)	Swept volume (cm ³)	Sub-category	Reference power
NRSh	SI	variable or constant	$0 < P < 19$	$SV < 50$	NRSh-v-1a	Maximum net power
				$SV \geq 50$	NRSh-v-1b	

Table I-4: Sub-categories of engine category NRS defined in point (4) of Article 4(1)

Category	Ignition type	Speed operation	Power range (kW)	Swept volume (cm ³)	Sub-category	Reference power
NRS	SI	variable $\geq 3\ 600$ rpm; or constant	$0 < P < 19$	$80 \leq SV < 225$	NRS-vr-1a	Maximum net power
				$SV \geq 225$	NRS-vr-1b	
		variable $< 3\ 600$ rpm		$80 \leq SV < 225$	NRS-vi-1a	
				$SV \geq 225$	NRS-vi-1b	
		variable or constant	$19 \leq P < 30$	$SV \leq 1\ 000$	NRS-v-2a	Maximum net power
				$SV > 1\ 000$	NRS-v-2b	
$30 \leq P < 56$	any		NRS-v-3	Maximum net power		

For engines < 19 kW with $SV < 80$ cm³ in machinery other than hand-held machinery, engines of the category NRSh shall be used.

Table I-5: Sub-categories of engine category IWP defined in point (5) of Article 4(1)

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	Reference power
IWP	all	variable	$19 \leq P < 75$	IWP-v-1	Maximum net power
			$75 \leq P < 130$	IWP-v-2	
			$130 \leq P < 300$	IWP-v-3	
			$P \geq 300$	IWP-v-4	
		constant	$19 \leq P < 75$	IWP-c-1	Rated net power
			$75 \leq P < 130$	IWP-c-2	
			$130 \leq P < 300$	IWP-c-3	
			$P \geq 300$	IWP-c-4	

Table I-6: Sub-categories of engine category IWA defined in point (6) of Article 4(1)

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	Reference power
IWA	all	variable	$19 \leq P < 75$	IWA-v-1	Maximum net power
			$75 \leq P < 130$	IWA-v-2	
			$130 \leq P < 300$	IWA-v-3	
			$P \geq 300$	IWA-v-4	

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	Reference power
		constant	$19 \leq P < 75$	IWA-c-1	Rated net power
			$75 \leq P < 130$	IWA-c-2	
			$130 \leq P < 300$	IWA-c-3	
			$P \geq 300$	IWA-c-4	

Table I-7: Sub-categories of engine category RLL defined in point (7) of Article 4(1)

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	Reference power
RLL	all	variable	$P > 0$	RLL-v-1	Maximum net power
		constant	$P > 0$	RLL-c-1	Rated net power

Table I-8: Sub-categories of engine category RLR defined in point (8) of Article 4(1)

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	Reference power
RLR	all	variable	$P > 0$	RLR-v-1	Maximum net power
		constant	$P > 0$	RLR-c-1	Rated net power

Table I-9: Sub-categories of engine category SMB defined in point (9) of Article 4(1)

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	Reference power
SMB	SI	variable or constant	$P > 0$	SMB-v-1	Maximum net power

Table I-10: Sub-categories of engine category ATS defined in point (10) of Article 4(1)

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	Reference power
ATS	SI	variable or constant	$P > 0$	ATS-v-1	Maximum net power

ANNEX II

Exhaust emission limits referred to in Article 18(2)

Table II-1: Stage V emission limits for engine category NRE defined in point (1) of Article 4(1)

Emission stage	Engine sub-category	Power range	Ignition type	CO	HC	NO _x	PM mass	PN	A
		kW		g/kWh	g/kWh	g/kWh	g/kWh	#/kWh	
Stage V	NRE-v-1 NRE-c-1	0 < P < 8	CI	8,00	(HC + NO _x ≤ 7,50)		0,40 ⁽¹⁾	—	1,10
Stage V	NRE-v-2 NRE-c-2	8 ≤ P < 19	CI	6,60	(HC + NO _x ≤ 7,50)		0,40	—	1,10
Stage V	NRE-v-3 NRE-c-3	19 ≤ P < 37	CI	5,00	(HC + NO _x ≤ 4,70)		0,015	1 × 10 ¹²	1,10
Stage V	NRE-v-4 NRE-c-4	37 ≤ P < 56	CI	5,00	(HC + NO _x ≤ 4,70)		0,015	1 × 10 ¹²	1,10
Stage V	NRE-v-5 NRE-c-5	56 ≤ P < 130	all	5,00	0,19	0,40	0,015	1 × 10 ¹²	1,10
Stage V	NRE-v-6 NRE-c-6	130 ≤ P ≤ 560	all	3,50	0,19	0,40	0,015	1 × 10 ¹²	1,10
Stage V	NRE-v-7 NRE-c-7	P > 560	all	3,50	0,19	3,50	0,045	—	6,00

⁽¹⁾ 0,60 for hand-startable, air-cooled direct injection engines.

Table II-2: Stage V emission limits for engine category NRG defined in point (2) of Article 4(1)

Emission stage	Engine sub-category	Power range	Ignition type	CO	HC	NO _x	PM mass	PN	A
		kW		g/kWh	g/kWh	g/kWh	g/kWh	#/kWh	
Stage V	NRG-v-1 NRG-c-1	P > 560	all	3,50	0,19	0,67	0,035	—	6,00

Table II-3: Stage V emission limits for engine category NRSh defined in point (3) of Article 4(1)

Emission stage	Engine sub-category	Power range	Ignition type	CO	HC + NO _x
		kW		g/kWh	g/kWh
Stage V	NRSh-v-1a	0 < P < 19	SI	805	50
Stage V	NRSh-v-1b			603	72

Table II-4: Stage V emission limits for engine category NRS defined in point (4) of Article 4(1)

Emission stage	Engine sub-category	Power range	Ignition type	CO	HC + NO _x
		kW		g/kWh	g/kWh
Stage V	NRS-vr-1a NRS-vi-1a	0 < P < 19	SI	610	10
Stage V	NRS-vr-1b NRS-vi-1b			610	8
Stage V	NRS-v-2a	19 ≤ P ≤ 30		610	8
Stage V	NRS-v-2b NRS-v-3	19 ≤ P < 56		4,40 (*)	2,70 (*)

(*) Optionally, as an alternative, any combination of values satisfying the equation $(HC + NO_x) \times CO^{0,784} \leq 8,57$ as well as the following conditions: $CO \leq 20,6$ g/kWh and $(HC + NO_x) \leq 2,7$ g/kWh

Table II-5: Stage V emission limits for engine category IWP defined in point (5) of Article 4(1)

Emission stage	Engine sub-category	Power range	Ignition type	CO	HC	NO _x	PM mass	PN	A
		kW		g/kWh	g/kWh	g/kWh	g/kWh	#/kWh	
Stage V	IWP-v-1 IWP-c-1	19 ≤ P < 75	all	5,00	(HC + NO _x ≤ 4,70)		0,30	—	6,00
Stage V	IWP-v-2 IWP-c-2	75 ≤ P < 130	all	5,00	(HC + NO _x ≤ 5,40)		0,14	—	6,00
Stage V	IWP-v-3 IWP-c-3	130 ≤ P < 300	all	3,50	1,00	2,10	0,10	—	6,00
Stage V	IWP-v-4 IWP-c-4	P ≥ 300	all	3,50	0,19	1,80	0,015	1 × 10 ¹²	6,00

Table II-6: Stage V emission limits for engine category IWA defined in point (6) of Article 4(1)

Emission stage	Engine sub-category	Power range	Ignition type	CO	HC	NO _x	PM mass	PN	A
		kW		g/kWh	g/kWh	g/kWh	g/kWh	#/kWh	
Stage V	IWA-v-1 IWA-c-1	19 ≤ P < 75	all	5,00	(HC + NO _x ≤ 4,70)		0,30	—	6,00
Stage V	IWA-v-2 IWA-c-2	75 ≤ P < 130	all	5,00	(HC + NO _x ≤ 5,40)		0,14	—	6,00

Emission stage	Engine sub-category	Power range	Ignition type	CO	HC	NO _x	PM mass	PN	A
		kW		g/kWh	g/kWh	g/kWh	g/kWh	#/kWh	
Stage V	IWA-v-3 IWA-c-3	$130 \leq P < 300$	all	3,50	1,00	2,10	0,10	—	6,00
Stage V	IWA-v-4 IWA-c-4	$P \geq 300$	all	3,50	0,19	1,80	0,015	1×10^{12}	6,00

Table II-7: Stage V emission limits for engine category RLL defined in point (7) of Article 4(1)

Emission stage	Engine sub-category	Power range	Ignition type	CO	HC	NO _x	PM mass	PN	A
		kW		g/kWh	g/kWh	g/kWh	g/kWh	#/kWh	
Stage V	RLL-c-1 RLL-v-1	$P > 0$	all	3,50	$(HC + NO_x \leq 4,00)$		0,025	—	6,00

Table II-8: Stage V emission limits for engine category RLR defined in point (8) of Article 4(1)

Emission stage	Engine sub-category	Power range	Ignition type	CO	HC	NO _x	PM mass	PN	A
		kW		g/kWh	g/kWh	g/kWh	g/kWh	#/kWh	
Stage V	RLR-c-1 RLR-v-1	$P > 0$	all	3,50	0,19	2,00	0,015	1×10^{12}	6,00

Table II-9: Stage V emission limits for engine category SMB defined in point (9) of Article 4(1)

Emission stage	Engine sub-category	Power range	Ignition type	CO	NO _x	HC
		kW		g/kWh	g/kWh	g/kWh
Stage V	SMB-v-1	$P > 0$	SI	275	—	75

Table II-10: Stage V emission limits for engine category ATS defined in point (10) of Article 4(1)

Emission stage	Engine sub-category	Power range	Ignition type	CO	HC + NO _x
		kW		g/kWh	g/kWh
Stage V	ATS-v-1	$P > 0$	SI	400	8

Specific provisions on total hydrocarbon (HC) limits for fully and partially gaseous-fuelled engines

1. For the sub-categories where an A-factor is defined, the HC limit for fully and partially gaseous-fuelled engines indicated in Tables II-1 to II-10 is replaced by a limit calculated using the following formula:

$$\text{HC} = 0,19 + (1,5 \times A \times \text{GER})$$

where GER is the average gas energy ratio over the appropriate test cycle. Where both a steady-state and transient test cycle apply, the GER shall be determined from the hot-start transient test cycle. Where more than one steady-state test cycle applies, the average GER shall be determined for each cycle individually.

If the calculated limit for HC exceeds the value of $0,19 + A$, the limit for HC shall be set to $0,19 + A$.

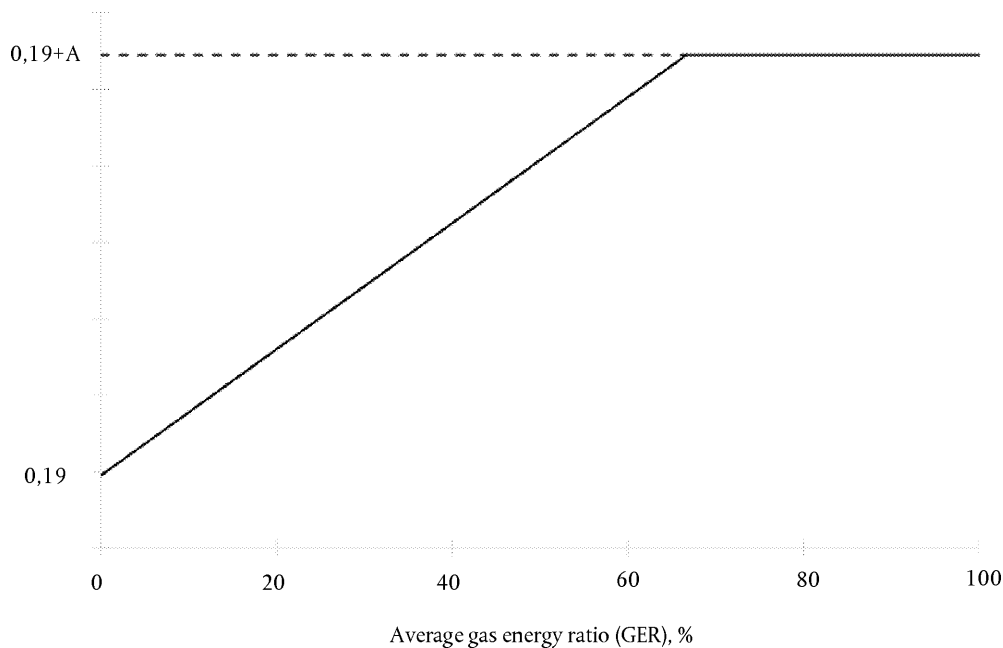


Figure 1. Diagram showing HC emission limit as function of average GER

2. For sub-categories with a combined HC and NO_x limit, the combined limit value for HC and NO_x shall be reduced by $0,19 \text{ g/kWh}$ and apply for NO_x only.
3. For non-gaseous-fuelled engines, the formula does not apply.

ANNEX III

Timetable for the application of this Regulation in respect of EU type-approvals and placing on the market

Table III-1: Dates of application of this Regulation for engine category NRE

Category	Ignition type	Power range (kW)	Sub-category	Mandatory date of application of this Regulation for	
				EU type-approval of engines	Placing on the market of engines
NRE	CI	$0 < P < 8$	NRE-v-1 NRE-c-1	1 January 2018	1 January 2019
		$8 \leq P < 19$	NRE-v-2 NRE-c-2		
	CI	$19 \leq P < 37$	NRE-v-3 NRE-c-3	1 January 2018	1 January 2019
		$37 \leq P < 56$	NRE-v-4 NRE-c-4		
	all	$56 \leq P < 130$	NRE-v-5 NRE-c-5	1 January 2019	1 January 2020
		$130 \leq P \leq 560$	NRE-v-6 NRE-c-6	1 January 2018	1 January 2019
		$P > 560$	NRE-v-7 NRE-c-7	1 January 2018	1 January 2019

Table III-2: Dates of application of this Regulation for engine category NRG

Category	Ignition type	Power range (kW)	Sub-category	Mandatory date of application of this Regulation for	
				EU type-approval of engines	Placing on the market of engines
NRG	all	$P > 560$	NRG-v-1 NRG-c-1	1 January 2018	1 January 2019

Table III-3: Dates of application of this Regulation for engine category NRSh

Category	Ignition type	Power range (kW)	Sub-category	Mandatory date of application of this Regulation for	
				EU type-approval of engines	Placing on the market of engines
NRSh	SI	$0 < P < 19$	NRSh-v-1a NRSh-v-1b	1 January 2018	1 January 2019

Table III-4: Dates of application of this Regulation for engine category NRS

Category	Ignition type	Power range (kW)	Sub-category	Mandatory date of application of this Regulation for	
				EU type-approval of engines	Placing on the market of engines
NRS	SI	$0 < P < 56$	NRS-vr-1a NRS-vi-1a NRS-vr-1b NRS-vi-1b NRS-v-2a NRS-v-2b NRS-v-3	1 January 2018	1 January 2019

Table III-5: Dates of application of this Regulation for engine category IWP

Category	Ignition type	Power range (kW)	Sub-category	Mandatory date of application of this Regulation for	
				EU type-approval of engines	Placing on the market of engines
IWP	all	$19 \leq P < 300$	IWP-v-1 IWP-c-1 IWP-v-2 IWP-c-2 IWP-v-3 IWP-c-3	1 January 2018	1 January 2019
		$P \geq 300$	IWP-v-4 IWP-c-4	1 January 2019	1 January 2020

Table III-6: Dates of application of this Regulation for engine category IWA

Category	Ignition type	Power range (kW)	Sub-category	Mandatory date of application of this Regulation for	
				EU type-approval of engines	Placing on the market of engines
IWA	all	$19 \leq P < 300$	IWA-v-1 IWA-c-1 IWA-v-2 IWA-c-2 IWA-v-3 IWA-c-3	1 January 2018	1 January 2019
		$P \geq 300$	IWA-v-4 IWA-c-4	1 January 2019	1 January 2020

Table III-7: Dates of application of this Regulation for engine category RLL

Category	Ignition type	Power range (kW)	Sub-category	Mandatory date of application of this Regulation for	
				EU type-approval of engines	Placing on the market of engines
RLL	all	P > 0	RLL-v-1 RLL-c-1	1 January 2020	1 January 2021

Table III-8: Dates of application of this Regulation for engine category RLR

Category	Ignition type	Power range (kW)	Sub-category	Mandatory date of application of this Regulation for	
				EU type-approval of engines	Placing on the market of engines
RLR	all	P > 0	RLR-v-1 RLR-c-1	1 January 2020	1 January 2021

Table III-9: Dates of application of this Regulation for engine category SMB

Category	Ignition type	Power range (kW)	Sub-category	Mandatory date of application of this Regulation for	
				EU type-approval of engines	Placing on the market of engines
SMB	SI	P > 0	SMB-v-1	1 January 2018	1 January 2019

Table III-10: Dates of application of this Regulation for engine category ATS

Category	Ignition type	Power range (kW)	Sub-category	Mandatory date of application of this Regulation for	
				EU type-approval of engines	Placing on the market of engines
ATS	SI	P > 0	ATS-v-1	1 January 2018	1 January 2019

ANNEX IV

Non-road steady-state test cycles (NRSC)

Table IV-1: NRSC test cycles for engines of category NRE

Category	Speed operation	Purpose	Sub-category	NRSC
NRE	variable	Variable-speed engine having a reference power of less than 19 kW	NRE-v-1 NRE-v-2	G2 or C1
		Variable-speed engine having a reference power greater than or equal to 19 kW but not more than 560 kW	NRE-v-3 NRE-v-4 NRE-v-5 NRE-v-6	C1
		Variable-speed engine having a reference power greater than 560 kW	NRE-v-7	C1
	constant	Constant-speed engine	NRE-c-1 NRE-c-2 NRE-c-3 NRE-c-4 NRE-c-5 NRE-c-6 NRE-c-7	D2

Table IV-2: NRSC test cycles for engines of category NRG

Category	Speed operation	Purpose	Sub-category	NRSC
NRG	variable	Variable-speed engine for generating set	NRG-v-1	C1
	constant	Constant-speed engine for generating set	NRG-c-1	D2

Table IV-3: NRSC test cycles for engines of category NRSh

Category	Speed operation	Purpose	Sub-category	NRSC
NRSh	variable or constant	Engine having a reference power of not more than 19 kW, for use in hand-held machinery	NRSh-v-1a NRSh-v-1b	G3

Table IV-4: NRSC test cycles for engines of category NRS

Category	Speed operation	Purpose	Sub-category	NRSC
NRS	variable < 3 600 rpm	Variable-speed engine having a reference power of not more than 19 kW, intended for operation < 3 600 rpm	NRS-vi-1a NRS-vi-1b	G1

Category	Speed operation	Purpose	Sub-category	NRSC
	variable ≥ 3 600 rpm; or constant	Variable-speed engine having a reference power of not more than 19 kW, intended for operation ≥ 3 600 rpm; constant-speed engine having a reference power of not more than 19 kW	NRS-vr-1a NRS-vr-1b	G2
	variable or constant	Engine having both a reference power of between 19 kW and 30 kW and a total swept volume of less than 1 litre	NRS-v-2a	G2
		Engine having a reference power greater than 19 kW, other than engine having both a reference power of between 19 kW and 30 kW and a total swept volume of less than 1 litre	NRS-v-2b NRS-v-3	C2

Table IV-5: NRSC test cycles for engines of category IWP

Category	Speed operation	Purpose	Sub-category	NRSC
IWP	variable	Variable-speed engine intended for propulsion that operates on a fixed-pitch propeller curve	IWP-v-1 IWP-v-2 IWP-v-3 IWP-v-4	E3
	constant	Constant-speed engine intended for propulsion that operates with a controllable-pitch or electrically coupled propeller	IWP-c-1 IWP-c-2 IWP-c-3 IWP-c-4	E2

Table IV-6: NRSC test cycles for engines of category IWA

Category	Speed operation	Purpose	Sub-category	NRSC
IWA	variable	Variable-speed engine intended for auxiliary use on inland waterway vessels	IWA-v-1 IWA-v-2 IWA-v-3 IWA-v-4	C1
	constant	Constant-speed engine intended for auxiliary use on inland waterway vessels	IWA-c-1 IWA-c-2 IWA-c-3 IWA-c-4	D2

Table IV-7: NRSC test cycles for engines of category RLL

Category	Speed operation	Purpose	Sub-category	NRSC
RLL	variable	Variable-speed engine for propulsion of locomotives	RLL-v-1	F
	constant	Constant-speed engine for propulsion of locomotives	RLL-c-1	D2

Table IV-8: NRSC test cycles for engines of category RLR

Category	Speed operation	Purpose	Sub-category	NRSC
RLR	variable	Variable-speed engine for propulsion of railcars	RLR-v-1	C1
	constant	Constant-speed engine for propulsion of railcars	RLR-c-1	D2

Table IV-9: NRSC test cycles for engines of category SMB

Category	Speed operation	Purpose	Sub-category	NRSC
SMB	variable or constant	Engines for propulsion of snowmobiles	SMB-v-1	H

Table IV-10: NRSC test cycle for engines of category ATS

Category	Speed operation	Purpose	Sub-category	NRSC
ATS	variable or constant	Engines for propulsion of ATVs or SbS	ATS-v-1	G1

Non-road transient test cycles

Table IV-11: Non-road transient test cycle for engines of category NRE

Category	Speed operation	Purpose	Sub-category	
NRE	variable	Variable-speed engine having reference power greater than or equal to 19 kW but not more than 560 kW	NRE-v-3 NRE-v-4 NRE-v-5 NRE-v-6	NRTC

Table IV-12: Non-road transient test cycle for engines of category NRS ⁽¹⁾

Category	Speed operation	Purpose	Sub-category	
NRS	variable or constant	Engine having a reference power greater than 19 kW, other than engine having both a reference power of between 19 kW and 30 kW and a total swept volume of less than 1 litre	NRS-v-2b NRS-v-3	LSI-NRTC

⁽¹⁾ Only applicable for engines with maximum test speed $\leq 3\,400$ rpm.

ANNEX V

Emission durability periods (EDP) referred to in Article 25(1)

Table V-1: EDP for engine category NRE

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	EDP (hours)
NRE	CI	variable	$0 < P < 8$	NRE-v-1	3 000
	CI		$8 \leq P < 19$	NRE-v-2	
	CI		$19 \leq P < 37$	NRE-v-3	5 000
	CI		$37 \leq P < 56$	NRE-v-4	8 000
	all		$56 \leq P < 130$	NRE-v-5	
			$130 \leq P \leq 560$	NRE-v-6	
			$P > 560$	NRE-v-7	
	CI	constant	$0 < P < 8$	NRE-c-1	3 000
	CI		$8 \leq P < 19$	NRE-c-2	
	CI		$19 \leq P < 37$	NRE-c-3	
	CI		$37 \leq P < 56$	NRE-c-4	8 000
	all		$56 \leq P < 130$	NRE-c-5	
			$130 \leq P \leq 560$	NRE-c-6	
			$P > 560$	NRE-c-7	

Table V-2: EDP for engine category NRG

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	EDP (hours)
NRG	all	constant	$P > 560$	NRG-v-1	8 000
		variable		NRG-c-1	

Table V-3: EDP for engine category NRSh

Category	Ignition type	Speed operation	Power range (kW)	Swept volume (cm ³)	Sub-category	EDP (hours)
NRSh	SI	variable or constant	$0 < P < 19$	$SV < 50$	NRSh-v-1a	50/125/300 ⁽¹⁾
				$SV \geq 50$	NRSh-v-1b	

⁽¹⁾ EDP hours correspond to the EDP categories Cat 1/Cat 2/Cat 3 as defined in the delegated acts adopted pursuant to this Regulation.

Table V-4: EDP for engine category NRS

Category	Ignition type	Speed operation	Power range (kW)	Swept volume (cm ³)	Sub-category	EDP (hours)
NRS	SI	variable ≥ 3 600 rpm; or constant	0 < P < 19	80 ≤ SV < 225	NRS-vr-1a	125/250/500 ⁽¹⁾
		variable < 3 600 rpm			NRS-vi-1a	
		variable ≥ 3 600 rpm; or constant		SV ≥ 225	NRS-vr-1b	250/500/1 000 ⁽¹⁾
		variable < 3 600 rpm			NRS-vi-1b	
		variable or constant	19 ≤ P < 30	SV ≤ 1 000	NRS-v-2a	1 000
				SV > 1 000	NRS-v-2b	5 000
			30 ≤ P < 56	any	NRS-v-3	5 000

⁽¹⁾ EDP hours correspond to the EDP categories Cat 1/Cat 2/Cat 3 as defined in the delegated acts adopted pursuant to this Regulation.

Table V-5: EDP for engine category IWP

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	EDP (hours)
IWP	all	variable	19 ≤ P < 75	IWP-v-1	10 000
			75 ≤ P < 130	IWP -v-2	
			130 ≤ P < 300	IWP -v-3	
			P ≥ 300	IWP -v-4	
		constant	19 ≤ P < 75	IWP -c-1	10 000
			75 ≤ P < 130	IWP -c-2	
			130 ≤ P < 300	IWP -c-3	
			P ≥ 300	IWP -c-4	

Table V-6: EDP for engine category IWA

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	EDP (hours)
IWA	all	variable	19 ≤ P < 75	IWA-v-1	10 000
			75 ≤ P < 130	IWA -v-2	
			130 ≤ P < 300	IWA -v-3	
			P ≥ 300	IWA -v-4	

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	EDP (hours)
		constant	$19 \leq P < 75$	IWA -c-1	10 000
			$75 \leq P < 130$	IWA -c-2	
			$130 \leq P < 300$	IWA -c-3	
			$P \geq 300$	IWA -c-4	

Table V-7: EDP for engine category RLL

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	EDP (hours)
RLL	all	variable	$P > 0$	RLL-v-1	10 000
		constant	$P > 0$	RLL-c-1	

Table V-8: EDP for engine category RLR

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	EDP (hours)
RLR	all	variable	$P > 0$	RLR-v-1	10 000
		constant	$P > 0$	RLR-c-1	

Table V-9: EDP for engine category SMB

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	EDP (hours)
SMB	SI	variable or constant	$P > 0$	SMB-v-1	400 ⁽¹⁾

⁽¹⁾ Alternatively, an emission durability period of 8 000 km is permitted

Table V-10: EDP for engine category ATS

Category	Ignition type	Speed operation	Power range (kW)	Sub-category	EDP (hours)
ATS	SI	variable or constant	$P > 0$	ATS-v-1	500/1 000 ⁽¹⁾

⁽¹⁾ EDP hours correspond to the following total engine swept volumes: $< 100 \text{ cm}^3 / \geq 100 \text{ cm}^3$.

ANNEX VI

Special purpose engine (SPE) emission limit values referred to in Article 34(5)

Table VI-1: SPE emission limit values for engine category NRE

Emission stage	Engine sub-category	Power range	Ignition type	CO	HC	NO _x	PM mass	A
		kW		g/kWh	g/kWh	g/kWh	g/kWh	
SPE	NRE-v-1 NRE-c-1	0 < P < 8	CI	8	7,5		0,4	6,0
SPE	NRE-v-2 NRE-c-2	8 ≤ P < 19	CI	6,6	7,5		0,4	6,0
SPE	NRE-v-3 NRE-c-3	19 ≤ P < 37	CI	5,5	7,5		0,6	6,0
SPE	NRE-v-4 NRE-c-4	37 ≤ P < 56	CI	5,0	4,7		0,4	6,0
SPE	NRE-v-5 NRE-c-5	56 ≤ P < 130	all	5,0	4,0		0,3	6,0
SPE	NRE-v-6 NRE-c-6	130 ≤ P ≤ 560	all	3,5	4,0		0,2	6,0
SPE	NRE-v-7 NRE-c-7	P > 560	all	3,5	6,4		0,2	6,0

Table VI-2: SPE emission limit values for engine category NRG

Emission stage	Engine sub-category	Power range	Ignition type	CO	HC	NO _x	PM mass	A
		kW		g/kWh	g/kWh	g/kWh	g/kWh	
SPE	NRG-c-1	P > 560	all	3,5	6,4		0,2	6,0
	NRG-v-1							

Table VI-3: SPE emission limit values for engine category RLL

Emission stage	Engine sub-category	Power range	Ignition type	CO	HC	NO _x	PM mass	A
		kW		g/kWh	g/kWh	g/kWh	g/kWh	
SPE	RLL-v-1 RLL-c-1	P ≤ 560	all	3,5	(HC + NO _x ≤ 4,0)		0,2	6,0
SPE	RLL-v-1 RLL-c-1	P > 560 kW	all	3,5	0,5	6,0	0,2	6,0
SPE	RLL-v-1 RLL-c-1	P > 2000 kW and SVc ⁽¹⁾ > 5 litres	all	3,5	0,4	7,4	0,2	6,0

⁽¹⁾ Swept Volume per cylinder.

DIRECTIVES

DIRECTIVE (EU) 2016/1629 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 14 September 2016

laying down technical requirements for inland waterway vessels, amending Directive 2009/100/EC and repealing Directive 2006/87/EC

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 91(1) 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⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) Directive 2006/87/EC of the European Parliament and of the Council ⁽⁴⁾ establishes harmonised conditions for issuing technical certificates for inland waterway vessels throughout the Union's inland waterways.
- (2) The technical requirements for vessels navigating on the Rhine river are established by the Central Commission for Navigation on the Rhine (CCNR).
- (3) The technical requirements set out in the Annexes to Directive 2006/87/EC incorporate most of the provisions laid down in the Rhine Vessel Inspection Regulations, in the version approved in 2004 by the CCNR. The conditions and technical requirements for issuing inland navigation certificates under Article 22 of the Revised Convention for Rhine Navigation are updated regularly and are recognised as reflecting current technological developments.
- (4) Given the different legal frameworks and timeframes for the decision-making procedures, it is difficult to maintain the equivalence between the Union inland navigation certificates issued pursuant to Directive 2006/87/EC and the certificates issued pursuant to Article 22 of the Revised Convention for Rhine Navigation. This results in a lack of legal certainty, which has a potentially negative impact on navigation safety.
- (5) In order to achieve harmonisation at Union level, and to prevent distortions of competition and varying levels of safety, the same technical requirements should be applied to the whole of the Union's inland waterways and should be updated regularly.

⁽¹⁾ OJ C 177, 11.6.2014, p. 58.

⁽²⁾ OJ C 126, 26.4.2014, p. 48.

⁽³⁾ Position of the European Parliament of 15 April 2014 (not yet published in the Official Journal) and position of the Council at first reading of 16 June 2016 (not yet published in the Official Journal). Position of the European Parliament of 14 September 2016.

⁽⁴⁾ Directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels and repealing Council Directive 82/714/EEC (OJ L 389, 30.12.2006, p. 1).

- (6) Since the CCNR has built up significant expertise in developing and updating technical requirements for inland navigation vessels, that expertise should be fully used to benefit the inland waterways in the Union. A European Committee for drawing up Standards in Inland Navigation (CESNI), acting under the auspices of the CCNR and open to experts from all Member States, is responsible for drawing up the technical standards in the field of inland navigation to which reference should be made by the Union.
- (7) Union inland navigation certificates attesting that craft are fully compliant with the technical requirements should be valid on all Union inland waterways.
- (8) There should be greater harmonisation of the conditions for the issuing, by Member States, of supplementary Union inland navigation certificates for operations on Zone 1 and 2 waterways (estuaries) and for operations on Zone 4 waterways.
- (9) In the interest of safety, standards should be harmonised to a high degree and in such a way that there is no reduction in safety standards on the Union inland waterways. However, Member States should be allowed, after consulting the Commission, to establish specific provisions concerning additional or reduced technical requirements for certain zones, provided that such measures are limited to the specific subjects set out in Annexes III and IV.
- (10) While maintaining an adequate level of safety, Member States should have the possibility to derogate from this Directive in certain cases related to navigable waterways that are not linked to the inland waterways of other Member States or to certain craft that operate exclusively on a national waterway. Where such derogations cover all craft navigating in a Member State, it would be a disproportionate and unnecessary obligation for that Member State to transpose all of the obligations set out in this Directive. Member States cannot issue Union inland navigation certificates unless they have transposed the relevant obligations under this Directive.
- (11) Derogations from this Directive and recognition of equivalences for specific craft should be possible in order to accommodate alternative approaches or to promote innovation or to prevent unreasonable costs, provided that equivalent or adequate safety is ensured. In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission concerning such derogations and recognitions of equivalences. The Commission should have the possibility to refer to recommendations by CESNI on such derogations and recognitions of equivalences. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁾.
- (12) For reasons of administrative, technical and economic efficiency, Member States should have the possibility to designate competent authorities responsible for ensuring conformity with this Directive and its correct application in accordance with their national practices.
- (13) A Union inland navigation certificate should be issued to a craft that passes a technical inspection carried out prior to that craft being put into service. This technical inspection should be used to check whether the craft complies with the technical requirements set out in this Directive. The competent authorities of the Member States should be entitled at any time to control such compliance and the availability on board of a valid inland navigation certificate.
- (14) It is appropriate, within certain time limits and depending on the category of craft concerned, to determine the period of validity of Union inland navigation certificates on a case-by-case basis.
- (15) In order to maintain a high degree of safety in inland navigation, it is necessary to lay down detailed provisions concerning the replacement, renewal, extension of validity and issuing of new Union inland navigation certificates.
- (16) To ensure that this Directive is implemented in an efficient manner, information relating to inland waterway craft should be entered into the European Hull Data Base (EHDB) for the use of competent authorities. The EHDB should in particular provide an option to verify the history of any pending applications for certificates and information on all valid certificates already issued to the craft in question. The Commission should keep and adapt the EHDB so that it can fully serve the application of this Directive.

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

- (17) The measures set out in Directive 2009/100/EC of the European Parliament and of the Council ⁽¹⁾ need to remain in force for vessels not covered by this Directive.
- (18) In order to improve the clarity of Union legislation, the scope of Directive 2009/100/EC should be adapted to take into account the complementary scope of this Directive and developments regarding international agreements. Directive 2009/100/EC should therefore be amended.
- (19) A transitional regime should be applied to craft in service not yet carrying a Union inland navigation certificate when they undergo a first technical inspection under the revised technical requirements established by this Directive.
- (20) For the purposes of better regulation and simplification, it should be possible for this Directive to make reference to international standards without duplicating them in the Union legal framework.
- (21) CESNI has been established to facilitate harmonisation of technical standards applied in the inland waterway sector across Europe. In order to ensure a high level of safety and efficiency in inland navigation, to maintain the equivalence of the inland navigation certificates and to take into account scientific and technical progress and other developments in the sector, the reference to the applicable European Standard laying down Technical Requirements for Inland Navigation vessels (ES-TRIN standard) in this Directive should be kept up to date. Therefore, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of updating the reference to the most recent version of the ES-TRIN standard and setting the date of its application.
- (22) Where duly justified by an appropriate analysis and in the absence of pertinent and up-to-date international standards to ensure safety of navigation, or where changes in the decision-making process of CESNI would compromise Union interests, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending, in order to safeguard Union interests, Annex II to this Directive by providing appropriate technical requirements.
- (23) In order to amend or supplement certain non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the amendment of the classification of a waterway; the further specification of the data to be entered in the EHDB, the types of access to as well as the instructions regarding the use and operation of that data base; the updating of the minimum technical requirements of inland waterways craft, and the amendment of Annexes III and IV to take account of scientific and technical progress, of Annex V to update and streamline its procedural provisions and of Annex VI to modify the criteria for the recognition of classification societies in order to ensure safety of navigation, as well as the amendment of any references in this Directive to Annexes II and V made necessary by the adoption of delegated acts.
- (24) When adopting delegated acts, 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 ⁽²⁾. 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.
- (25) In order to accommodate alternative approaches, to promote innovation, to prevent unreasonable costs, to provide for an efficient process for issuing certificates or to take account of regional circumstances, implementing powers should be conferred on the Commission as regards the authorisation of certain derogations to the technical requirements for specific craft, the recognition of classification societies and the approval of additional or reduced technical requirements for vessels operating in certain zones which are not linked to the navigable inland waterways of another Member State. These powers should be exercised in accordance with Regulation (EU) No 182/2011.

⁽¹⁾ Directive 2009/100/EC of the European Parliament and of the Council of 16 September 2009 on reciprocal recognition of navigability licences for inland waterway vessels (OJ L 259, 2.10.2009, p. 8).

⁽²⁾ OJ L 123, 12.5.2016, p. 1.

- (26) In order to ensure an appropriate framework for coordination and cooperation with international organisations competent for inland waterway navigation, in particular the CCNR, and the development of uniform technical standards for inland navigation to which the Union and international organisations could refer, this Directive should be subject to review, particularly as regards the effectiveness of the measures that it introduces, as well as the mechanisms for cooperation with international organisations competent for inland navigation, with a view to achieving a single, uniform set of technical standards.
- (27) In Denmark, Estonia, Ireland, Greece, Spain, Cyprus, Latvia, Malta, Portugal, Slovenia and Finland, there are no inland waterways, or inland navigation is not used to a significant extent. It would therefore be a disproportionate and unnecessary obligation for those Member States to transpose and implement this Directive.
- (28) Since the objective of this Directive, namely establishing the technical requirements necessary to ensure the safety of craft navigating on the inland waterways of the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, 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 that objective.
- (29) Directive 2006/87/EC should therefore be repealed,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER 1

SCOPE, DEFINITIONS AND WATERWAY ZONES

Article 1

Subject matter

This Directive establishes:

- (a) the technical requirements necessary to ensure the safety of craft navigating on the inland waterways referred to in Article 4; and
- (b) the classification of those inland waterways.

Article 2

Scope of application

1. This Directive applies to the following craft:
 - (a) vessels having a length (L) of 20 metres or more;
 - (b) vessels for which the product of length (L), breadth (B) and draught (T) is a volume of 100 cubic metres or more;
 - (c) tugs and pushers intended for towing or pushing either craft referred to in points (a) and (b) or floating equipment, or intended for moving such craft or floating equipment alongside;
 - (d) passenger vessels;
 - (e) floating equipment.

2. This Directive does not apply to:
- (a) ferries;
 - (b) naval vessels;
 - (c) seagoing ships, including seagoing tugs and pushers, which:
 - (i) operate or are based on tidal waters; or
 - (ii) operate temporarily on inland waterways;

provided that they carry at least:

- a certificate proving conformity with the 1974 International Convention for the Safety of Life at Sea (SOLAS), or equivalent certificate; a certificate proving conformity with the 1966 International Convention on Load Lines, or equivalent, and an international oil pollution prevention (IOPP) certificate proving conformity with the 1973/78 International Convention for the Prevention of Pollution from Ships (Marpol),
- in case of seagoing ships not covered by SOLAS the 1966 International Convention on Load Lines or Marpol, the relevant certificates and the freeboard marks required by the laws of their flag states,
- in the case of passenger vessels not covered by any of the Conventions referred to in the first indent, a certificate on safety rules and standards for passenger ships issued in conformity with Directive 2009/45/EC of the European Parliament and of the Council ⁽¹⁾, or
- in the case of recreational craft not covered by any of the Conventions referred to in the first indent, a certificate of the country of which it carries the flag, demonstrating an adequate level of safety.

Article 3

Definitions

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

- (a) 'craft' means a vessel or item of floating equipment;
- (b) 'vessel' means an inland waterway vessel or seagoing ship;
- (c) 'inland waterway vessel' means a vessel intended solely or mainly for navigation on inland waterways;
- (d) 'tug' means a vessel specially built to perform towing operations;
- (e) 'pusher' means a vessel specially built to propel a pushed convoy;
- (f) 'passenger vessel' means a day trip or cabin vessel constructed and equipped to carry more than 12 passengers;
- (g) 'floating equipment' means a floating installation carrying working gear such as cranes, dredging equipment, pile drivers or elevators;
- (h) 'floating establishment' means any floating installation not normally intended to be moved, such as a swimming bath, dock, jetty or boathouse;
- (i) 'floating object' means a raft or other structure, object or assembly capable of navigation, not being a vessel or floating equipment or establishment;

⁽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).

- (j) 'recreational craft' means a vessel other than a passenger vessel, intended for sport or pleasure;
- (k) 'high-speed vessel' means a motorised craft capable of reaching speeds over 40 km/h in relation to water;
- (l) 'water displacement' means the immersed volume of the vessel, in cubic metres;
- (m) 'length (L)' means the maximum length of the hull in metres, excluding rudder and bowsprit;
- (n) 'breadth (B)' means the maximum breadth of the hull in metres, measured to the outer edge of the shell plating (excluding paddle wheels, rub rails, and similar);
- (o) 'draught (T)' means the vertical distance in metres between the lowest point of the hull without taking into account the keel or other fixed attachments and the maximum draught line;
- (p) 'linked inland waterways' means waterways of a Member State connected, by inland waterways which can be navigated under national or international law by craft falling within the scope of this Directive, to inland waterways of another Member State.

Article 4

Classification of inland waterways

1. For the purposes of this Directive, the inland waterways of the Union shall be classified as follows:
 - (a) Zones 1, 2, 3 and 4:
 - (i) Zones 1 and 2: the waterways listed in Chapter 1 of Annex I;
 - (ii) Zone 3: the waterways listed in Chapter 2 of Annex I;
 - (iii) Zone 4: all other inland waterways which can be navigated under national law by craft falling within the scope of this Directive.
 - (b) Zone R: those of the waterways referred to in point (a) for which certificates are to be issued in accordance with Article 22 of the Revised Convention for Rhine Navigation as that Article is worded on 6 October 2016.
2. The Commission is empowered to adopt delegated acts in accordance with Article 32 concerning amendments to Annex I so as to modify the classification of a waterway, including the addition and deletion of waterways. Such amendments to Annex I may be made only on request by the Member State concerned, for waterways on its territory.

CHAPTER 2

NAVIGATION CERTIFICATES

Article 5

Compliance with technical and safety requirements

1. Member States shall ensure that craft referred to in Article 2(1) operating on the Union inland waterways referred to in Article 4 are constructed and maintained in accordance with the requirements set out in this Directive.
2. Compliance of a craft with paragraph 1 shall be attested by a certificate issued in accordance with this Directive.

*Article 6***Union inland navigation certificates**

1. Union inland navigation certificates shall be issued by the competent authorities of the Member States in accordance with this Directive. Member States shall, upon issuance of a Union inland navigation certificate, verify that the craft in question has not already been issued a valid certificate referred to in Article 7.
2. The Union inland navigation certificate shall be drawn up in accordance with the model provided for in Annex II.
3. Each Member State shall draw up a list indicating the competent authorities for issuing the Union inland navigation certificates and shall notify the Commission thereof, including any changes to the list. The Commission shall maintain an up-to-date list of competent authorities on an appropriate website.
4. The Union inland navigation certificate shall be issued to craft following a technical inspection, carried out before the craft is put into service and intended to check whether the craft complies with the technical requirements referred to in Annexes II and V.
5. Compliance of a craft with the additional requirements referred to in Article 23(1) and (2) shall, where appropriate, be checked during the technical inspections provided for in paragraph 4 of this Article and in Article 29, or during a technical inspection carried out at the request of the owner of the craft or its representative.
6. The procedures for making a request for an inspection and for establishing the place and time of that inspection shall fall within the powers of the competent authorities issuing the Union inland navigation certificate. The competent authority shall determine which documents are to be submitted. The procedure shall take place in such a way as to ensure that the inspection may be conducted within a reasonable period following the lodging of the request.
7. The competent authorities of Member States shall, at the request of the owner of the craft or its representative, issue a Union inland navigation certificate to a craft that is not subject to this Directive, if that craft fulfils the requirements set out in this Directive.

*Article 7***Obligation to carry a certificate**

Craft operating on the Union inland waterways referred to in Article 4 shall carry the following original documents:

- (a) when operating on a Zone R waterway either:
 - a certificate issued pursuant to Article 22 of the Revised Convention for Rhine Navigation, or
 - a Union inland navigation certificate attesting to the full compliance of the craft, where applicable pursuant to the transitional provisions under Annex II to this Directive for craft navigating on the Rhine (Zone R), with technical requirements referred to in Annexes II and V to this Directive, for which equivalency with the technical requirements laid down in application of the Revised Convention for Rhine Navigation has been established in accordance with the applicable rules and procedures;
- (b) when operating on other waterways, a Union inland navigation certificate or a certificate issued pursuant to Article 22 of the Revised Convention for Rhine Navigation, including, where applicable, any supplementary Union inland navigation certificates in accordance with Article 8 of this Directive.

*Article 8***Supplementary Union inland navigation certificates**

1. Craft carrying a valid Union inland navigation certificate or a certificate issued pursuant to Article 22 of the Revised Convention for Rhine Navigation shall be provided with a supplementary Union inland navigation certificate in accordance with Article 23 of this Directive.
2. The supplementary Union inland navigation certificate shall be drawn up in accordance with the model provided for in Annex II and shall be issued by the competent authorities under the conditions laid down for the waterways concerned.

*Article 9***Provisional Union inland navigation certificates**

1. The competent authorities of Member States may issue a provisional Union inland navigation certificate:
 - (a) to craft that intend to travel to a certain place with the permission of the competent authority in order to obtain a Union inland navigation certificate;
 - (b) to craft whose Union inland navigation certificate has been lost, damaged or temporarily withdrawn as referred to in Articles 13 and 15 or in Annexes II and V;
 - (c) to craft whose Union inland navigation certificate is being prepared following a successful inspection;
 - (d) to craft which have not met all of the conditions required for obtaining a Union inland navigation certificate in accordance with Annexes II and V;
 - (e) to craft that are so damaged that they no longer comply with their Union inland navigation certificate;
 - (f) to floating establishments or floating objects in cases where the authorities responsible for special transport operations have made the authorisation to carry out a special transport operation subject to obtaining such a provisional Union inland navigation certificate, as provided for by the applicable navigational authority regulations of the Member States;
 - (g) to craft benefitting from a derogation from Annexes II and V, in accordance with Articles 25 and 26 of this Directive, pending the adoption of the relevant implementing acts.
2. The provisional Union inland navigation certificate shall be issued only where the navigability of the craft, floating establishment or floating object appears to have been adequately ensured. It shall be drawn up using the model provided for in Annex II.
3. The provisional Union inland navigation certificate shall include the conditions considered necessary by the competent authority and shall be valid:
 - (a) in the cases referred to in points (a), (d), (e) and (f) of paragraph 1, for a single specific trip to be made within a suitable period, which shall not exceed one month;
 - (b) in the cases referred to in points (b) and (c) of paragraph 1, for an appropriate duration;
 - (c) in the cases referred to in point (g) of paragraph 1, for six months; the provisional Union inland navigation certificate may be extended for six months at a time until the respective implementing act has been adopted.

*Article 10***Validity of Union inland navigation certificates**

1. The period of validity of Union inland navigation certificates issued to newly built craft shall be determined by the competent authority and shall not exceed:

- (a) five years in the case of passenger and high-speed vessels;
- (b) 10 years in the case of all other craft.

The period of validity shall be stated on the Union inland navigation certificate.

2. In the case of craft already in operation before the technical inspection takes place, the competent authority shall set the period of validity of the Union inland navigation certificate on a case-by-case basis, in the light of the results of the inspection. However, the period of validity shall not exceed the periods set out in paragraph 1.

*Article 11***Exceptional extension of validity of Union inland navigation certificates**

The validity of a Union inland navigation certificate may be exceptionally extended without a technical inspection for not more than six months in accordance with Annexes II and V, by the competent authority which issued or renewed it. The extension shall be indicated on that certificate.

*Article 12***Renewal of Union inland navigation certificates**

1. The Union inland navigation certificate shall be renewed on expiry of its period of validity in accordance with the conditions laid down in Article 6, following a technical inspection to check whether the craft complies with the technical requirements referred to in Annexes II and V. Union inland navigation certificates may be renewed by any competent authority that has been notified to the Commission pursuant to Article 6(3).

2. Where Union inland navigation certificates are renewed, the transitional provisions provided for in Annex II shall apply to the craft under the conditions specified in that Annex.

*Article 13***Replacement of Union inland navigation certificates**

Each Member State shall lay down the conditions under which a valid Union inland navigation certificate which has been lost or damaged may be replaced. Those conditions shall require craft applying for replacement, in the case of loss, to provide a declaration of the loss of the certificate, or in the case of damage, to return the damaged certificate. The replacement certificate shall state that it is a duplicate.

*Article 14***Major alterations or major repairs of craft**

In the event of major alterations or major repairs which affect the craft's compliance with the technical requirements referred to in Annexes II and V concerning its structural soundness, navigation, manoeuvrability or special features, that craft shall undergo, prior to any further voyage, the technical inspection provided for in Article 6.

Following that inspection, the existing Union inland navigation certificate shall be amended to reflect the altered technical characteristics of the craft or that certificate shall be withdrawn and a new one issued. If the new certificate is issued in a Member State other than that which issued or renewed the initial certificate, the competent authority which issued or renewed the certificate shall be informed accordingly within 30 days from the date of issuance of the new certificate.

*Article 15***Refusal to issue or renew, and withdrawal of, Union inland navigation certificates**

1. Any decision not to issue or renew a Union inland navigation certificate shall state the grounds on which it is based. The owner of the craft or its representative shall be notified thereof and shall be informed about the appeal procedure and the time limits applicable in the Member State concerned.
2. Any valid Union inland navigation certificate may be withdrawn by the competent authority which issued or renewed it if the craft ceases to comply with the technical requirements set out in its certificate.

*Article 16***Recognition of navigation certificates of craft from third countries**

Pending the entry into force of agreements on the mutual recognition of navigation certificates between the Union and third countries, the competent authorities of a Member State may recognise the navigation certificates of craft from third countries for navigation within the territory of that Member State.

*Article 17***Registers of certificates**

Member States shall ensure that their competent authorities keep a register of all certificates they have issued or renewed pursuant to Articles 6, 8, 9 and 12. That register shall include the information contained in the model certificate provided for in Annex II.

CHAPTER 3

VESSEL IDENTIFICATION, INSPECTIONS AND ALTERED TECHNICAL REQUIREMENTS

Article 18

Unique European vessel identification number

1. Member States shall ensure that each craft is assigned a unique European vessel identification number (ENI), in accordance with Annexes II and V.
2. Each craft shall have only one ENI, which shall remain unchanged during its entire lifetime.
3. When issuing a Union inland navigation certificate, the competent authority shall include the ENI therein.
4. Each Member State shall draw up a list indicating the competent authorities responsible for assigning ENIs and shall notify the Commission thereof, as well as any changes to the list. The Commission shall maintain an up-to-date list of competent authorities on an appropriate website.

Article 19

European Hull Data Base

1. The Commission shall keep the EHDB in order to support administrative measures for maintaining safety and ease of navigation and to ensure application of this Directive.

Any processing of personal data by the Member States shall 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⁾.

Any processing of personal data by the Commission shall be carried out in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽²⁾.

2. Member States shall ensure that, for each craft, the competent authorities enter, without delay, in the EHDB:
 - (a) the data identifying and describing the craft in accordance with this Directive;
 - (b) the data relating to the certificates issued, renewed, replaced and withdrawn, as well as the competent authority which issued the certificate, in accordance with this Directive;
 - (c) a digital copy of all certificates issued by competent authorities in accordance with this Directive;
 - (d) the data on any rejected or pending applications for certificates in accordance with this Directive; and
 - (e) any changes to the data referred to in points (a) to (d).

⁽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. The data referred to in paragraph 2 may be processed by competent authorities of Member States, contracting parties to the Revised Convention for Rhine Navigation and third countries that are entrusted with tasks related to the application of this Directive and of Directive 2005/44/EC of the European Parliament and of the Council ⁽¹⁾, for the following purposes:

- (a) applying this Directive and of Directive 2005/44/EC;
- (b) ensuring waterway traffic and infrastructure management;
- (c) maintaining or enforcing safety of navigation;
- (d) collecting statistical data.

4. The competent authority of a Member State may transfer personal data to a third country or international organisation provided that it does so only on a case-by-case basis and that the requirements of Regulation (EU) 2016/679, and in particular those set out in Chapter V thereof, are fulfilled. Member States shall ensure that the transfer is necessary for the purposes referred to in paragraph 3 of this Article. Member States shall ensure that the third country or international organisation does not transfer the data to another third country or international organisation unless it is given express written authorisation to do so and complies with the conditions specified by the competent authority of the Member State.

5. The Commission may, on a case-by-case basis, transfer personal data or grant access to the EHDB to an authority of a third country or international organisation provided that the transfer or access is necessary for the purposes referred to in paragraph 3 of this Article, and provided the requirements of Article 9 of Regulation (EC) No 45/2001 are fulfilled. The Commission shall ensure that the transfer or access is necessary for the purposes referred to in paragraph 3 of this Article. The Commission shall ensure that the third country or international organisation does not transfer the data to another third country or international organisation unless it is given express written authorisation and complies with the conditions specified by the Commission.

6. The competent authority shall ensure that the data related to a craft is deleted from the database referred to in paragraph 1 when this craft is scrapped.

7. The Commission is empowered to adopt delegated acts in accordance with Article 32 further specifying:

- (a) the data to be entered in the database by Member States;
- (b) the types of access permitted, taking into account the categories of the recipients of data and the purposes for which such data are processed referred to in paragraph 3 of this Article;
- (c) the instructions regarding the use and operation of the database, in particular with respect to data security measures, encoding and processing of data and interconnection of the database with the registers referred to in Article 17.

Article 20

Carrying out of technical inspections

1. Member States shall ensure that the competent authorities referred to in paragraph 3 carry out the initial, periodical, special and voluntary inspections referred to in this Directive.

2. Those competent authorities may refrain from subjecting the craft in whole or in part to technical inspection where it is evident from a valid attestation, issued by a recognised classification society in accordance with Article 21, that the craft satisfies, in whole or in part, the technical requirements referred to in Annexes II and V.

⁽¹⁾ Directive 2005/44/EC of the European Parliament and of the Council of 7 September 2005 on harmonised river information services (RIS) on inland waterways in the Community (OJ L 255, 30.9.2005, p. 152).

3. Each Member State shall draw up a list indicating its competent authorities which are responsible for carrying out technical inspections and shall notify the Commission thereof, including any changes to the list. The Commission shall maintain an up-to-date list of competent authorities and inspection bodies on an appropriate website.
4. Each Member State shall comply with the specific requirements as regards inspection bodies and the request for an inspection, provided for in Annexes II and V.

Article 21

Recognition of classification societies

1. The Commission shall adopt implementing acts in order to recognise a classification society which meets the criteria listed in Annex VI, or to withdraw recognition, in accordance with the procedure set out in paragraphs 2 and 3 of this Article. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 33(2).
2. An application for recognition shall be submitted to the Commission by the Member State in which the classification society has its headquarters or a subsidiary authorised to issue attestations that a craft satisfies the requirements referred to in Annexes II and V in accordance with this Directive. This application shall be accompanied by all information and documentation needed to check that the criteria for recognition are met.
3. Any Member State may submit to the Commission a request to withdraw the recognition if it considers that a classification society no longer meets the criteria set out in Annex VI. The request for withdrawal shall be accompanied by documentary evidence.
4. The classification societies which, by 6 October 2016, have been granted recognition in accordance with Directive 2006/87/EC shall retain their recognition.
5. The Commission shall publish for the first time by 7 October 2017, and shall keep updated on an appropriate website, a list of the classification societies recognised in accordance with this Article. Member States shall communicate to the Commission any changes relating to the names or addresses of the classification societies for which they have applied for recognition.

Article 22

Control of compliance

1. Member States shall ensure that their competent authorities may at any time control whether a craft is carrying a valid certificate in accordance with Article 7 and whether it satisfies the requirements for the issuance of such a certificate.

In the case of failure to comply with the requirements, the competent authorities shall take appropriate measures in accordance with paragraphs 2 to 5 of this Article. They shall also request that the owner of the craft or its representative takes all necessary measures to remedy the situation within a time limit set by the competent authorities.

The competent authority which issued the certificate carried on the craft shall be informed of such failures within seven days of the control.

2. Where a valid certificate is not being carried, the craft may be prevented from proceeding with its voyage.

3. If, during the control, the competent authorities find that the craft constitutes a manifest danger for the persons on board, the environment or the safety of the navigation, they may prevent the craft from proceeding with its voyage until the necessary steps have been taken to remedy the situation.

The competent authorities may also prescribe proportionate measures which will enable the craft to proceed safely, where appropriate on termination of its transport operations, to a place where it will either be inspected or repaired.

4. A Member State which has prevented a craft from proceeding with its voyage, or has notified the owner of the craft or its representative of its intention to so prevent it if the defects found are not corrected, shall inform the competent authority in the Member State which issued or last renewed the craft's certificate, within seven days of the decision which it has taken or intends to take.

5. Any decision to interrupt the passage of a craft taken in the implementation of this Directive shall state in detail the reasons on which it is based. Such decision shall be notified without delay to the party concerned, who shall at the same time be informed of the appeal procedures available under the laws in force in the Member State concerned and of their time limits.

Article 23

Altered technical requirements for certain zones

1. Member States may, where applicable subject to the requirements of the Revised Convention for Rhine Navigation, adopt technical requirements additional to those referred to in Annexes II and V for craft operating on Zone 1 and 2 waterways within their territory. Such additional requirements shall cover only the elements listed in Annex III.

2. In respect of passenger vessels operating on Zone 3 non-linked inland waterways, each Member State may maintain technical requirements in addition to those referred to in Annexes II and V. Such additional requirements shall cover only the elements listed in Annex III.

3. Where application of the transitional provisions referred to in Annex II would result in a reduction in existing national safety standards, a Member State may disapply those transitional provisions in respect of passenger vessels operating on its non-linked inland waterways. In such circumstances, the Member State concerned may require that, from 30 December 2008, such passenger vessels operating on its non-linked inland waterways comply fully with the technical requirements referred to in Annexes II and V.

4. Member State may allow a partial application of the technical requirements or set technical requirements which are less stringent than those referred to in Annexes II and V in respect of craft operating exclusively on Zone 3 and 4 waterways within its territory. The less stringent technical requirements or the partial application of the technical requirements shall cover only the elements listed in Annex IV.

5. Where a Member State applies paragraph 1, 2, 3 or 4, it shall notify the Commission thereof at least six months before the envisaged date of application. The Commission shall inform the other Member States accordingly.

In the cases referred to in paragraphs 1 and 2 of this Article, the Commission shall adopt implementing acts to approve the additional technical requirements. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 33(2).

6. Compliance with the altered technical requirements in accordance with paragraphs 1, 2, 3 and 4 shall be specified in the Union inland navigation certificate or in the supplementary Union inland navigation certificate.

*Article 24***Derogations for certain categories of craft**

1. While maintaining an adequate level of safety, Member States may authorise derogations from all or part of this Directive for:
 - (a) craft operating on non-linked inland waterways;
 - (b) craft having a dead weight not exceeding 350 tonnes or craft not intended for the carriage of goods and having a water displacement of less than 100 cubic metres, which were laid down before 1 January 1950 and which operate exclusively within their territory.
2. Without prejudice to the Revised Convention for Rhine Navigation, Member States may authorise, in respect of navigation within their territory, derogations from this Directive for craft operating limited journeys of local interest or in harbour areas. The derogations and the journeys or areas for which they are valid shall be specified in the craft's certificate.
3. The Member States shall notify the Commission of the derogations authorised in accordance with paragraphs 1 and 2. The Commission shall inform the other Member States accordingly.

*Article 25***Use of new technologies and derogations for specific craft**

1. In order to encourage innovation and the use of new technologies in inland navigation, the Commission shall be empowered to adopt implementing acts allowing derogations or recognising the equivalence of technical specifications for a specific craft regarding:
 - (a) the issuance of a Union inland navigation certificate recognising the use, or presence, on board a craft of other materials, installations or items of equipment, or the adoption of arrangements or design aspects other than those included in Annexes II and V, provided that an equivalent level of safety is ensured;
 - (b) the issuance of a Union inland navigation certificate for trial purposes for a limited period incorporating new technical specifications that derogate from the requirements of Annexes II and V, provided that an adequate level of safety is ensured.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 33(2).

2. The competent authorities of a Member State shall specify any applicable derogations and recognitions of equivalences referred to in paragraph 1 in the Union inland navigation certificate.

*Article 26***Hardship**

1. Following the expiry of transitional provisions to technical requirements laid down in Annex II, the Commission may adopt implementing acts allowing derogations from the technical requirements laid down in that Annex which were subject to those transitional provisions, where those requirements are technically difficult to apply or where their application might entail disproportionate costs.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 33(2).

2. The competent authorities of a Member State shall specify any applicable derogations referred to in paragraph 1 in the Union inland navigation certificate.

Article 27

Register of type-approved equipment

The Commission shall publish on an appropriate website a register of equipment which has been type-approved in accordance with Annexes II and V.

CHAPTER 4

FINAL PROVISIONS

Article 28

Transitional provisions concerning the use of documents

Documents falling within the scope of this Directive and issued by the competent authorities of the Member States under Directive 2006/87/EC before 6 October 2016 shall remain valid until they expire.

Article 29

Craft excluded from the scope of Directive 82/714/EEC

1. The Union inland navigation certificate shall be issued to craft excluded from the scope of Council Directive 82/714/EEC ⁽¹⁾, but covered by this Directive in accordance with Article 2(1) of this Directive, following a technical inspection to check whether the craft comply with the technical requirements referred to in Annexes II and V to this Directive. That technical inspection shall be carried out upon the expiry of the craft's current certificate, and in any event no later than 30 December 2018.

2. Any failure to meet the technical requirements referred to in Annexes II and V shall be specified in the Union inland navigation certificate. Provided that the competent authorities consider that these shortcomings do not constitute a manifest danger, the craft referred to in paragraph 1 of this Article may continue to operate until such time as those components or areas of the craft which have been certified as not meeting those requirements are replaced or altered, following which those components or areas shall meet the technical requirements referred to in Annexes II and V.

3. The replacement of existing parts with identical parts or parts of an equivalent technology and design during routine repairs and maintenance shall not be considered to be a replacement or an alteration within the meaning of paragraph 2.

4. Manifest danger within the meaning of paragraph 2 of this Article shall be presumed in particular when requirements concerning the structural soundness, navigation or manoeuvrability or special features of the craft in accordance with the technical requirements referred to in Annexes II and V are affected. Derogations that are provided for in the technical requirements referred to in Annexes II and V shall not be identified as shortcomings which constitute a manifest danger.

⁽¹⁾ Council Directive 82/714/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels (OJ L 301, 28.10.1982, p. 1).

*Article 30***Transitional provisions concerning temporary requirements pursuant to Directive 2006/87/EC**

Temporary requirements adopted in accordance with Article 1.06 of Annex II to Directive 2006/87/EC shall remain valid until they expire.

*Article 31***Adaptation of the Annexes**

1. The Commission shall adopt delegated acts in accordance with Article 32 to adapt Annex II to update, without undue delay, the reference to the most recent version of the ES-TRIN standard and to set the date of its application.
2. By way of derogation from paragraph 1, where duly justified by an appropriate analysis and in the absence of pertinent and up-to-date international standards to ensure safety of navigation or where changes in the decision-making process of CESNI would compromise Union interests, the Commission is empowered to adopt delegated acts in accordance with Article 32 to amend Annex II to provide appropriate technical requirements.
3. The Commission is empowered to adopt delegated acts in accordance with Article 32 concerning the adaptations of Annexes III and IV to scientific and technical progress.
4. The Commission is empowered to adopt delegated acts in accordance with Article 32 concerning the adaptations of Annex V to update and streamline administrative provisions.
5. The Commission is empowered to adopt delegated acts in accordance with Article 32 concerning the adaptations of Annex VI to amend the criteria for the recognition of classification societies to ensure safety of navigation.
6. The Commission is empowered to adopt delegated acts in accordance with Article 32 in order to update the references in this Directive to certain provisions of Annexes II and V in order to take into account the amendments brought to these Annexes.

*Article 32***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 Articles 4, 19 and 31 shall be conferred on the Commission for a period of five years from 6 October 2016. 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 Articles 4, 19 and 31 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 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 4, 19 and 31 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.

Article 33

Committee procedure

1. The Commission shall be assisted by the Committee established by Article 7 of Council Directive 91/672/EEC ⁽¹⁾ (hereinafter 'the Committee'). The Committee is a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides.

Article 34

Review

The Commission shall submit, before 7 October 2021, a report to the European Parliament and to the Council reviewing the effectiveness of the measures introduced by this Directive, particularly as regards the harmonisation of technical requirements and the development of technical standards for inland navigation. The report shall also review the mechanisms for cooperation with international organisations competent for inland navigation. The report shall, if appropriate, be accompanied by a legislative proposal to further streamline cooperation and coordination in establishing standards to which reference can be made in legal acts of the Union. The Commission shall submit a similar report following any major developments in inland waterway transport.

Article 35

Penalties

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

⁽¹⁾ Council Directive 91/672/EEC of 16 December 1991 on the reciprocal recognition of national boatmasters' certificates for the carriage of goods and passengers by inland waterway (OJ L 373, 31.12.1991, p. 29).

*Article 36***Amendment to Directive 2009/100/EC**

Directive 2009/100/EC is amended as follows:

(1) Article 1 is replaced by the following:

'Article 1

This Directive applies to vessels used for goods transport on inland waterways and having a total dead weight of 20 metric tonnes or more:

- (a) having a length of less than 20 metres; and
- (b) for which the product of length (L), breadth (B) and draught (T) is less than 100 cubic metres.

This Directive is without prejudice to the Rhine Vessel Inspection Regulations and to the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN).'

(2) Article 3 is amended as follows:

(a) Paragraph 4 is replaced by the following:

'4. Member States may require vessels carrying dangerous goods as defined in the ADN to comply with the requirements laid down in that Agreement. As evidence of this, they may require that the authorisation provided for in that Agreement be produced.;

(b) the second subparagraph of paragraph 5 is replaced by the following:

'Special conditions for the transport of dangerous goods shall be considered fulfilled in all Community waterways if the vessels meet the requirements of the ADN. Evidence of compliance with those requirements may be provided by the authorisation referred to in paragraph 4.'

*Article 37***Transposition**

1. Without prejudice to Article 40, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive, at the latest by 7 October 2018 and which shall apply from this date. They shall immediately inform the Commission thereof.

When Member States adopt such measures, they shall contain a reference to this Directive or be accompanied by such a 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 measures of national law which they adopt in the field covered by this Directive.

3. Any Member State which, as a result of derogations authorised in accordance with Article 24(1) and (2), has no craft subject to this Directive operating on its waterways shall not be required to transpose Chapter 2, Article 18(3) and Articles 20 and 21.

*Article 38***Repeal**

Directive 2006/87/EC is repealed with effect from 7 October 2018.

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

*Article 39***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 40***Addressees**

This Directive is addressed to the Member States except Denmark, Estonia, Ireland, Greece, Spain, Cyprus, Latvia, Malta, Portugal, Slovenia and Finland.

Done at Strasbourg, 14 September 2016.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
I. KORČOK

LIST OF ANNEXES

Annex I:	List of Union inland waterways divided geographically into Zones 1, 2, and 3
Annex II:	Minimum technical requirements applicable to craft on inland waterways of Zones 1, 2, 3 and 4
Annex III:	Subjects for possible additional technical requirements applicable to craft on inland waterways of Zones 1, 2 and non-linked 3
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Annex V:	Detailed procedural provisions
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ANNEX I

LIST OF UNION INLAND WATERWAYS DIVIDED GEOGRAPHICALLY INTO ZONES 1, 2 AND 3

CHAPTER 1

Zone 1*Germany*

Ems	From a line linking the former Greetsiel lighthouse and the western pier of the port entrance at Eemshaven seawards as far as latitude 53° 30' N and longitude 6° 45' E, i.e. slightly seawards of the lightering area for dry-cargo carriers in the Alte Ems ⁽¹⁾
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⁽¹⁾ In the case of vessels whose home port is elsewhere, account is to be taken of Article 32 of the Ems-Dollart Treaty of 8 April 1960 (BGBl. 1963 II, p. 602).

Poland

The part of Pomorska Bay southward from the line linking NordPerd on Rugen Island and the lighthouse Niechorze.

The part of Gdańska Bay southward from the line linking the lighthouse Hel and the entrance buoy to the port of Baltijsk.

Sweden

Lake Vänern, bounded in the south by the parallel of latitude through Bastugrunds beacon

Göta älv and Rivöfjorden, bounded in the east by the Älvsborg bridge, in the west by the parallel of longitude through Gäveskär lighthouse, and in the south by the parallel of latitude through Smörbådan lighthouse

United Kingdom

SCOTLAND	
Blue Mull Sound	Between Gutcher and Belmont
Yell Sound	Between Tofts Voe and Ulsta
Sullom Voe	Within a line from the north-east point of Gluss Island to the northern point of Calback Ness
Dales Voe	In winter: within a line from the north point of Kebister Ness to the Coast of Breiwick at longitude 1° 10,8' W
Dales Voe	In summer: as for Lerwick
Lerwick	In winter: within the area bounded to the northward by a line from Scottle Holm to Scarfi Taing on Bressay and to the southward by a line from Twageos Point Lighthouse to Whalpa Taing on Bressay
Lerwick	In summer: within the area bounded to the northward by a line from Brim Ness to the north-east corner of Inner Score and to the southward by a line from the south end of Ness of Sound to Kirkabisterness

Kirkwall	Between Kirkwall and Rousay not east of a line between Point of Graand (Egilsay) and Galt Ness (Shapinsay) or between Head of Work (Mainland) through Helliar Holm light to the shore of Shapinsay; not north-west of the south-east tip of Eynhallow Island, not to seaward and a line between the shore on Rousay at 59° 10,5' N 002° 57,1' W and the shore on Egilsay at 59° 10' N 002° 56,4' W
Stromness	To Scapa but not outside Scapa Flow
Scapa Flow	Within an area bounded by lines drawn from Point of Cletts on the island of Hoy to Thomson's Hill triangulation point on the island of Fara and thence to Gibraltar Pier on the island of Flotta; from St Vincent Pier on the island of Flotta to the westernmost point of Calf of Flotta; from the easternmost point of the Calf of Flotta to Needle Point on the island of South Ronaldsay and from the Ness on Mainland to Point of Oxan lighthouse on the island of Graemsay and thence to Bu Point on the island of Hoy; and seaward of Zone 2 waters
Balnakiel Bay	Between Eilean Dubh and A'Chleit
Cromarty Firth	Within a line from North Sutor to Nairn Breakwater and seaward of Zone 2 waters
Inverness	Within a line from North Sutor to Nairn Breakwater and seaward of Zone 2 waters
River Tay — Dundee	Within a line from Broughty Castle to Tayport and seaward of Zone 2 waters
Firth of Forth and River Forth	Within a line from Kirkcaldy to River Portobello and seaward of Zone 2 waters
Solway Firth	Within a line from Southernness Point to Silloth
Loch Ryan	Within a line from Finnart's Point to Milleur Point and seaward of Zone 2 waters
The Clyde	<p>Outer limit: a line from Skipness to a position one mile south of Garroch Head thence to Farland Head</p> <p>Inner limit in winter: a line from Cloch Lighthouse to Dunoon Pier</p> <p>Inner limit in summer: a line from Bogany Point, Isle of Bute to Skelmorlie Castle and a line from Ardlamont Point to the southern extremity of Ettrick Bay inside the Kyles of Bute</p> <p><i>Note:</i> The above inner summer limit is extended between 5 June and 5 September (both dates inclusive) by a line from a point two miles off the Ayrshire coast at Skelmorlie Castle to Tomont End, Cumbrae, and a line from Portachur Point, Cumbrae to Inner Brigurd Point, Ayrshire</p>

Oban	Within an area bounded on the north by a line from Dunollie Point Light to Ard na Chruidh and to the south by a line from Rudha Seanach to Ard na Cuile
Kyle of Lochalsh	Through Loch Alsh to the head of Loch Duich
Loch Gairloch	In winter: none In summer: South of a line running east from Rubha na Moine to Eilan Horrisdale and thence to Rubha nan Eanntag
NORTHERN IRELAND	
Belfast Lough	In winter: none In summer: within a line from Carrickfergus to Bangor and seaward of Zone 2 waters
Loch Neagh	At a greater distance than 2 miles from the shore
EAST COAST OF ENGLAND	
River Humber	In winter: within a line from New Holland to Paull In summer: within a line from Cleethorpes Pier to Patrington Church and seaward of Zone 2 waters
WALES AND WEST COAST OF ENGLAND	
River Severn	In winter: within a line from Blacknore Point to Caldicot Pill, Portskewett In summer: within a line from Barry Dock Pier to Steepholm and thence to Brean Down and seaward of Zone 2 waters
River Wye	In winter: within a line from Blacknore Point to Caldicot Pill, Portskewett In summer: within a line from Barry Dock Pier to Steepholm and thence to Brean Down and seaward of Zone 2 waters
Newport	In winter: none In summer: within a line from Barry Dock Pier to Steepholm and thence to Brean Down and seaward of Zone 2 waters

Cardiff	<p>In winter: none</p> <p>In summer: within a line from Barry Dock Pier to Steepholm and thence to Brean Down and seaward of Zone 2 waters</p>
Barry	<p>In winter: None</p> <p>In summer: within a line from Barry Dock Pier to Steepholm and thence to Brean Down and seaward of Zone 2 waters</p>
Swansea	<p>Within a line joining the seaward ends of the breakwaters</p>
Menai Straits	<p>Within the Menai Straits from a line joining Llanddwyn Island Light to Dinas Dinlleu and lines joining the south end of Puffin Island to Trwyn DuPoint and Llanfairfechan Railway Station, and seaward of Zone 2 waters</p>
River Dee	<p>In winter: within a line from Hilbre Point to Point of Air</p> <p>In summer: within a line from Formby Point to Point of Air and seaward of Zone 2 waters</p>
River Mersey	<p>In winter: None</p> <p>In summer: within a line from Formby Point to Point of Air and seaward of Zone 2 waters</p>
Preston and Southport	<p>Within a line from Southport to Blackpool inside the banks and seaward of Zone 2 waters</p>
Fleetwood	<p>In winter: None</p> <p>In summer: within a line from Rossal Point to Humphrey Head and seaward of Zone 2 waters</p>
River Lune	<p>In winter: None</p> <p>In summer: within a line from Rossal Point to Humphrey Head and seaward of Zone 2 waters</p>

Heysham	In winter: None In summer: within a line from Rossal Point to Humphrey Head
Morecambe	In winter: None In the summer: from within a line from Rossal Point to Humphrey Head
Workington	Within a line from Southernness Point to Silloth and seaward of Zone 2 waters
SOUTH OF ENGLAND	
River Colne, Colchester	In winter: within a line from Colne Point to Whitstable In summer: within a line from Clacton Pier to Reculvers
River Blackwater	In winter: within a line from Colne Point to Whitstable In summer: within a line from Clacton Pier to Reculvers and seaward of Zone 2 waters
River Crouch and River Roach	In winter: within a line from Colne Point to Whitstable In summer: within a line from Clacton Pier to Reculvers and seaward of Zone 2 waters
River Thames and its tributaries	In winter: within a line from Colne Point to Whitstable In summer: within a line from Clacton Pier to Reculvers and seaward of Zone 2 waters
River Medway and the Swale	In winter: within a line from Colne Point to Whitstable In summer: within a line from Clacton Pier to Reculvers and seaward of Zone 2 waters
Chichester	Inside the Isle of Wight within an area bounded by lines drawn between the church spire, West Wittering, to Trinity Church, Bembridge, to the eastward, and the Needles and Hurst Point to the westward and seaward of Zone 2 waters

Langstone Harbour	Inside the Isle of Wight within an area bounded by lines drawn between the church spire, West Wittering, to Trinity Church, Bembridge, to the eastward, and the Needles and Hurst Point to the westward and seaward of Zone 2 waters
Portsmouth	Inside the Isle of Wight within an area bounded by lines drawn between the church spire, West Wittering, to Trinity Church, Bembridge, to the eastward, and the Needles and Hurst Point to the westward and seaward of Zone 2 waters
Bembridge, Isle of Wight	Inside the Isle of Wight within an area bounded by lines drawn between the church spire, West Wittering, to Trinity Church, Bembridge, to the eastward, and the Needles and Hurst Point to the westward and seaward of Zone 2 waters
Cowes, Isle of Wight	Inside the Isle of Wight within an area bounded by lines drawn between the church spire, West Wittering, to Trinity Church, Bembridge, to the eastward, and the Needles and Hurst Point to the westward and seaward of Zone 2 waters
Southampton	Inside the Isle of Wight within an area bounded by lines drawn between the church spire, West Wittering, to Trinity Church, Bembridge, to the eastward, and the Needles and Hurst Point to the westward and seaward of Zone 2 waters
Beaulieu River	Inside the Isle of Wight within an area bounded by lines drawn between the church spire, West Wittering, to Trinity Church, Bembridge, to the eastward, and the Needles and Hurst Point to the westward and seaward of Zone 2 waters
Keyhaven Lake	Inside the Isle of Wight within an area bounded by lines drawn between the church spire, West Wittering, to Trinity Church, Bembridge, to the eastward, and the Needles and Hurst Point to the westward and seaward of Zone 2 waters
Weymouth	Within Portland Harbour and between the River Wey and Portland Harbour
Plymouth	Within a line from Cawsand to Breakwater to Staddon and seaward of Zone 2 waters
Falmouth	In winter: within a line from St Anthony Head to Rosemullion In summer: within a line from St Anthony Head to Nare Point and seaward of Zone 2 waters
River Camel	Within a line from Stepper Point to Trebetherick Point and seaward of Zone 2 waters
Bridgewater	Within the bar and seaward of Zone 2 waters

River Avon (Avon)	In winter: within a line from Blacknore Point to Caldicot Pill, Portskewett In summer: within a line from Barry Pier to Steepholm and thence to Brean Down and seaward of Zone 2 waters
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Zone 2*Czech Republic*

Dam Lake Lipno

Germany

Ems	From a line across the Ems near the entrance to the port of Papenburg between the former Diemen pumping station and the opening of the dyke at Halte as far as a line linking the former Greetsiel lighthouse and the western pier of the port entrance at Eemshaven
Jade	Inside a line linking the former Schillig cross light and Langwarden church tower
Weser	From the north-western edge of the railway bridge in Bremen as far as a line linking Langwarden and Cappel church towers, including the Westergate, Rekumer Loch, Rechter Nebenarm and Schweiburg side branches
Elbe with Bützflether Süderelbe (from km 0,69 till the mouth in the Elbe), Ruthenstrom (from km 3,75 till the mouth in the Elbe), Wischhafener Süderelbe (from km 8,03 till the mouth in the Elbe)	From the lower limit of the port of Hamburg as far as a line linking the Döse beacon and the western edge of the Friedrichskoog dyke (Dieksand), including the Nebanelbe and the Este, Lühe, Schwinge, Oste, Pinnau, Krückau and Stör tributaries (in each case from the mouth to the barrage)
Meldorfer Bucht	Inside a line linking the western edge of the Friedrichskoog dyke (Dieksand) and the western pier head at Büsum
Eider	From the mouth of the Gieselau Canal (km 22,64) to the line between the middle of the fortress (Tränke) and the churchtower of Vollerwiek
Gieselau Canal	From the mouth in the Eider till the the mouth in the Nord-Ostsee Canal
Flensburger Förde	Inside a line linking Kegnäs lighthouse and Birknack and North from the German-Danish border in the Flensburger Förde
Schlei	Inside a line between the Schleimünde pier heads
Eckernförder Bucht	Inside a line linking Boknis-Eck and the north-eastern point of the mainland near Dänisch Nienhof
Kieler Förde	Inside a line linking the Bülk lighthouse and the Laboe naval memorial

Nord-Ostsee-Kanal including Audorfer See and Schirnauer See	From a line linking the pier heads at Brunsbüttel as far as a line linking the entry lights at Kiel-Holtenau, including Obereidersee and Enge, Audorfer See, Borgstedter See and Enge, Schirnauer See, Flemhuder See and the Achterwehrer Canal
Trave	From the north-western edge of the railway lift bridge in Lübeck with the Pötenitzer Wiek, and the Dassower See as far as a line linking the southern inner and northern outer pier heads at Travemünde
Leda	From the entrance of the outer harbour of Leer sea lock to the mouth in the Eems
Hunte	From the port of Oldenburg and from 140 m downstream of the Amalienbrücke in Oldenburg to the mouth in the Weser
Lesum	From the confluence of the Hamme and Wümme (km 0,00) to the mouth in the Weser
Este	From the tail water of Buxtehude lock (km 0,25) to the mouth in the Elbe
Lühe	From the tail water of the Au-Mühle in Horneburg (km 0,00) to the mouth in the Elbe
Schwinge	From the north edge of the Salztor lock in Stade to the mouth in the Elbe
Oste	From 210 m above the middle line of the traffic bridge over the Oste barrage (km 69,360) to the mouth in the Elbe
Pinnau	From the south-western edge of the railway bridge in Pinneberg to the mouth in the Elbe
Krückau	From the south-western edge of the bridge leading to/from the Wedenkamp in Elmshorn to the mouth in the Elbe
Stör	From Rensing tide gauge to the mouth in the Elbe
Freiburger Hafenvriel	From the eastern edge of the sluice in Freiburg an der Elbe as far as the mouth in the Elbe
Wismarbucht, Kirchsee, Brei- tling, Salzhaff and Wismar port area	Seawards as far as a line between Hoher Wieschendorf Huk and Timmendorf light and a line linking Gollwitz light on the island of Poel and the southern point of the Wustrow peninsula
Warnow, including the Brei- tling and side branches	Downstream of the Mühlendamm from the northern edge of the Geinitzbrücke in Rostock towards the sea as far as a line linking the northern points of the western and eastern piers in Warnemünde
Waters enclosed by the mainland and the Darß and Zingst pensinsulas and the islands of Hiddensee and Rügen (including Stralsund port area)	Extending seawards between the Zingst peninsula and the island of Bock: as far as latitude 54° 26' 42' N, the islands of Bock and Hiddensee: as far as a line linking the northern point of the island of Bock and the southern point of the island of Hiddensee, the island of Hiddensee and the island of Rügen (Bug): as far as a line linking the south-eastern point of Neubessin and Buger Haken

Kleine Jasmunder Bodden	
Greifswalder Bodden	Bodden seawards as far as a line from the eastern point of Thiessower Haken (Südperd) to the eastern point of the island of Ruden and continuing to the northern point of the island of Usedom (54° 10' 37' N, 13° 47' 51' E)
Ryck	East from the Steinbecker bridge in Greifswald to the linking line over the heads of the jetties
Waters enclosed by the mainland and the island of Usedom (the Peenestrom, including Wolgast port area and Achterwasser, and the Oder Haff)	Eastwards as far as the border with the Republic of Poland in the Stettiner Haff
Uecker	From the south-west edge of the traffic bridge in the Uekermünde to the linking line over the heads of the jetties

Note: In the case of vessels whose home port is in another State, account is to be taken of Article 32 of the Ems-Dollart Treaty of 8 April 1960 (BGBl. 1963 II, p. 602).

France

The Gironde from kilometre point (KP 48,50) to the downstream part of the point of the Ile de Patiras, to the transversal limit of the sea defined by the line joining the Pointe de Grave to the Pointe de Suzac;

the Loire from Cordemais (KP 25) to the transversal limit of the sea defined by the line joining the Pointe de Mindin to the Pointe de Penhoët;

the Seine from the start of the Tancarville Canal to the transversal limit of the sea defined by the line from Cape Hode, on the right bank, to the point, on the left bank, where the planned dyke meets the coast below Berville;

the Vilaine from the Arzal Dam to the transversal limit of the sea defined by the line joining the Pointe du Scal to the Pointe du Moustoir;

Lake Geneva.

Hungary

Lake Balaton

Netherlands

Dollard

Eems

Waddenzee: including the links with the North Sea

IJsselmeer: including the Markermeer and IJmeer but excluding the Gouwzee

Nieuwe Waterweg and the Scheur

Calland Kanaal west from the Benelux harbour

Hollands Diep

Breiddiep, Beerkanaal and its connected harbours

Haringvliet and Vuile Gat: including the waterways between Goeree-Overflakkee on the one hand and Voorne-Putten and Hoeksche Waard on the other

Hellegat

Volkerak

Krammer

Grevelingenmeer and Brouwerschavensche Gat: including all the waterways between Schouwen-Duiveland and Goeree-Overflakkee

Keten, Mastgat, Zijpe, Krabbenkreek, Eastern Scheldt and Roompot: including the waterways between Walcheren, Noord-Beveland and Zuid-Beveland on the one hand and Schouwen-Duiveland and Tholen on the other hand, excluding the Scheldt-Rhine Canal

Scheldt and Western Scheldt and its mouth on the sea: including the waterways between Zeeland Flanders, on the one hand, and Walcheren and Zuid-Beveland, on the other, excluding the Scheldt-Rhine Canal

Poland

Lagoon of Szczecin

Lagoon of Kamień

Lagoon of Wisła

Bay of Puck

Włocławski Reservoir

Lake Śniardwy

Lake Niegocin

Lake Mamry

Sweden

Göta älv, bounded in the east by the Göta älv bridge and in the west by the Älvsborg bridge

United Kingdom

SCOTLAND	
Scapa Flow	Within an area bounded by lines drawn from Wharth on the island of Flotta to the Martello Tower on South Walls, and from Point Cletts on the island of Hoy to Thomson's Hill triangulation point on the island of Fara and thence to Gibraltar Pier on the island of Flotta
Kyle of Durness	South of Eilean Dubh

Cromarty Firth	Within a line between North Sutor and South Sutor
Inverness	Within a line from Fort George to Chanonry Point
Findhorn Bay	Within the spit
Aberdeen	Within a line from South Jetty to Abercromby Jetty
Montrose Basin	To the west of a line running north-south across the harbour entrance at Scurdie Ness Lighthouse
River Tay — Dundee	Within a line from the tidal basin (fish dock), Dundee to Craig Head, East Newport
Firth of Forth and River Forth	Within the Firth of Forth but not east of the Forth railway bridge
Dumfries	Within a line from Airds Point to Scar Point
Loch Ryan	Within a line from Cairn Point to Kircolm Point
Ayr Harbour	Inside the Bar
The Clyde	Above Zone 1 waters
Kyles of Bute	Between Colintrave and Rhubodach
Campbeltown Harbour	Within a line from Macringan's Point to Ottercharach Point
Loch Etive	Within Loch Etive above the Falls of Lora
Loch Leven	Above the bridge at Ballachulish
Loch Linnhe	North of Corran Point light
Loch Eil	The whole loch
Caledonian Canal	Lochs Lochy, Oich and Ness
Kyle of Lochalsh	Within Kyle Akin not westward of Eilean Ban Light or eastward of Eileanan Dubha
Loch Carron	Between Stromemore and Strome Ferry
Loch Broom, Ullapool	Within a line from Ullapool Point Light to Aultnaharrie
Kylesku	Across Loch Cairnbawn in the area between the easternmost point of Garbh Eilean and the westernmost point of Eilean na Rainich
Stornoway Harbour	Within a line from Arnish Point to Sandwick Bay Lighthouse, north-west side

The Sound of Scalpay	Not east of Berry Cove (Scalpay) and not west of Croc a Loin (Harris)
North Harbour, Scalpay and Tarbert Harbour	Within one mile from the shore of the Island of Harris
Loch Awe	The whole loch
Loch Katrine	The whole loch
Loch Lomond	The whole loch
Loch Tay	The whole loch
Loch Loyal	The whole loch
Loch Hope	The whole loch
Loch Shin	The whole loch
Loch Assynt	The whole loch
Loch Glascarnoch	The whole loch
Loch Fannich	The whole loch
Loch Maree	The whole loch
Loch Gairloch	The whole loch
Loch Monar	The whole loch
Loch Mullardach	The whole loch
Loch Cluanie	The whole loch
Loch Loyne	The whole loch
Loch Garry	The whole loch
Loch Quoich	The whole loch
Loch Arkaig	The whole loch
Loch Morar	The whole loch
Loch Shiel	The whole loch
Loch Earn	The whole loch
Loch Rannoch	The whole loch

Loch Tummel	The whole loch
Loch Ericht	The whole loch
Loch Fionn	The whole loch
Loch Glass	The whole loch
Loch Rimsdale/nan Clar	The whole loch
NORTHERN IRELAND	
Strangford Lough	Within a line from Cloghy Point to Dogtail Point
Belfast Lough	Within a line from Holywood to Macedon Point
Larne	Within a line from Larne Pier to the ferry pier on Island Magee
River Bann	From the seaward ends of the breakwaters to Toome Bridge
Lough Erne	Upper and Lower Lough Erne
Lough Neagh	Within two miles of the shore
EAST COAST OF ENGLAND	
Berwick	Within the breakwaters
Warkworth	Within the breakwaters
Blyth	Within the Outer Pier Heads
River Tyne	Dunston Staithes to Tyne Pier Heads
River Wear	Fatfield to Sunderland Pier Heads
Seaham	Within the breakwaters
Hartlepool	Within a line from Middleton Jetty to Old Pier Head Within a line joining North Pier Head to South Pier Head
River Tees	Within a line extending due west from Government Jetty to Tees Barrage
Whitby	Within Whitby Pier Heads
River Humber	Within a line from North Ferriby to South Ferriby
Grimsby Dock	Within a line from the West Pier of the Tidal Basin to the East Pier of the Fish Docks, North Quay

Boston	Inside the New Cut
Dutch River	The whole canal
River Hull	Beverley Beck to River Humber
Kielder Water	The whole lake
River Ouse	Below Naburn Lock
River Trent	Below Cromwell Lock
River Wharfe	From the junction with River Ouse to Tadcaster Bridge
Scarborough	Within Scarborough Pier Heads
WALES AND WEST COAST OF ENGLAND	
River Severn	North of a line running due west from Sharpness Point (51° 43,4' N) to Llanthony and Maisemore Weirs and seaward of Zone 3 waters
River Wye	At Chepstow, north of latitude (51° 38,0' N) to Monmouth
Newport	North of the overhead power cables crossing at Fifoots Points
Cardiff	Within a line from South Jetty to Penarth Head and the enclosed waters to the west of Cardiff Bay Barrage
Barry	Within a line joining the seaward ends of the breakwaters
Port Talbot	Within a line joining the seaward ends of the breakwaters on the River Afran outside enclosed docks
Neath	Within a line running due North from the seaward end of Baglan Bay Tanker Jetty (51° 37,2' N, 3° 50,5' W)
Llanelli and Burry Port	Within an area bounded by a line drawn from Burry Port Western Pier to Whiteford Point
Milford Haven	Within a line from South Hook Point to Thorn Point
Fishguard	Within a line joining the seaward ends of the north and east breakwaters
Cardigan	Within the Narrows at Pen-Yr-Ergyd
Aberystwyth	Within the seaward ends of the breakwaters

Aberdyfi	Within a line from Aberdyfi Railway Station to Twyni Bach Beacon
Barmouth	Within a line from Barmouth Railway Station to Penrhyn Point
Portmadoc	Within a line from Harlech Point to Graig Ddu
Holyhead	Within an area bounded by the main breakwater and a line drawn from the head of the breakwater to Brynglas Point, Towyn Bay
Menai Straits	Within the Menai Straits between a line joining Aber Menai Point to Belan Point and a line joining Beaumaris Pier to Pen-y-Coed Point
Conway	Within a line from Mussel Hill to Tremlyd Point
Llandudno	Within the breakwater
Rhyl	Within the breakwater
River Dee	Above Connah's Quay to Barrelwell Hill water extraction point
River Mersey	Within a line between the Rock Lighthouse and the North West Seaforth Dockbut excluding other docks
Preston and Southport	Within a line from Lytham to Southport and within Preston Docks
Fleetwood	Within a line from Low Light to Knott
River Lune	Within a line from Sunderland Point to Chapel Hill up to and including Glasson Dock
Barrow	Within a line joining Haws Point, Isle of Walney to Roa Island Slipway
Whitehaven	Within the breakwater
Workington	Within the breakwater
Maryport	Within the breakwater
Carlisle	Within a line joining Point Carlisle to Torduff
Coniston Water	The whole lake
Derwentwater	The whole lake
Ullswater	The whole lake
Windermere	The whole lake

SOUTH OF ENGLAND	
Blakeney and Morston Harbour and approaches	To the east of a line running south from Blakeney Point to the entrance of the Stiffkey River
River Orwell and River Stour	River Orwell within a line from Blackmanshead breakwater to Landguard Point and seaward of Zone 3 waters
River Blackwater	All waterways within a line from the south-western extremity of Mersea Island to Sales Point
River Crouch and River Roach	River Crouch within a line from Holliwell Point to Foulness Point, including the River Roach
River Thames and its tributaries	River Thames above a line drawn north/south through the eastern extremity of Denton Wharf Pier, Gravesend to Teddington Lock
River Medway and the Swale	River Medway from a line drawn from Garrison Point to the Grain Tower, to Allington Lock; and the Swale from Whitstable to the Medway
River Stour (Kent)	River Stour above the mouth to the landing at Flagstaff Reach
Dover Harbour	Within lines drawn across the east and west entrances to the Harbour
River Rother	River Rother above the Tidal Signal Station at Camber to Scots Float Sluice and to the entrance lock on the River Brede
River Adur and Southwick Canal	Within a line drawn across Shoreham Harbour entrance to Southwick Canal Lock and to the west end of Tarmac Wharf
River Arun	River Arun above Littlehampton Pier to Littlehampton Marina
River Ouse (Sussex) Newhaven	River Ouse from a line drawn across Newhaven Harbour entrance piers to the north end of North Quay
Brighton	Brighton Marina outer harbour within a line from the southern end of West Quay to the north end of South Quay
Chichester	Within a line drawn between Eastoke point and the church spire, West Wittering and seaward of Zone 3 waters
Langstone Harbour	Within a line drawn between Eastney Point and Gunner Point
Portsmouth	Within a line drawn across the harbour entrance from Port Blockhouse to the Round Tower
Bembridge, Isle of Wight	Within Brading Harbour
Cowes, Isle of Wight	The River Medina within a line from the Breakwater Light on the east bank to the House Light on the west bank

Southampton	Within a line from Calshot Castle to Hook Beacon
Beaulieu River	Within Beaulieu River not eastward of a north/south line through Inchmery House
Keyhaven Lake	Within a line drawn due north from Hurst Point Low Light to Keyhaven Marshes
Christchurch	The Run
Poole	Within the line of the Chain Ferry between Sandbanks and South Haven Point
Exeter	Within an east-west line from Warren Point to the Inshore Lifeboat Station opposite Checkstone Ledge
Teignmouth	Within the harbour
River Dart	Within a line from Kettle Point to Battery Point
River Salcombe	Within a line from Splat Point to Limebury Point
Plymouth	Within a line from Mount Batten Pier to Raveness Point through Drake's Island; the River Yealm within a line from Warren Point to Misery Point
Fowey	Inside the Harbour
Falmouth	Within a line from St. Anthony Head to Pendennis Point
River Camel	Within a line from Gun Point to Brea Hill
Rivers Taw and Torridge	Within a line bearing 200° from the lighthouse on Crow Point to the shore at Skern Point
Bridgewater	South of a line running due East from Stert Point (51° 13,0' N)
River Avon (Avon)	Within a line from Avonmouth Pier to Wharf Point, to Netham Dam

CHAPTER 2

Zone 3*Belgium*

Maritime Scheldt (downstream of Antwerp open anchorage)

Bulgaria

Danube: from rkm 845,650 to rkm 374,100

Czech Republic

Dam lakes: Brněnská (Kníničky), Jesenice, Nechranice, Orlík, Rozkoš, Slapy, Těrlicko, Žermanice and Nové Mlýny III

Sandy gravel mining lakes: Ostrožná Nová Ves and Tovačov

Germany

Danube	From Kelheim (km 2 414,72) to the German-Austrian border at Jochenstein
Rhine with Lampertheimer Altrhein (from km 4,75 to the Rijn), Altrhein Stockstadt-Erfelden (from km 9,80 to the Rijn)	From the German-Swiss border to the German-Netherlands border
Elbe (Norderelbe) including Süderelbe en Köhlbrand	From the mouth of the Elbe-Seiten canal to the lower limit of the port of Hamburg
Müritz	

France

The Adour from the Bec du Gave to the sea;

the Aulne from the lock at Châteaulin to the transversal limit of the sea defined by the Passage de Rosnoën;

the Blavet from Pontivy to the Pont du Bonhomme;

the Calais Canal;

the Charente from the bridge at Tonnay-Charente to the transverse limit of the sea defined by the line passing through the centre of the downstream light on the left bank and through the centre of the Fort de la Pointe;

the Dordogne from the confluence with the Lidoire to the Bec d'Ambès;

the Garonne from the bridge at Castet en Dorthe to the Bec d'Ambès;

the Gironde from the Bec d'Ambès to the transversal line at KP 48,50 and passing through the downstream point of the Ile de Patiras;

the Hérault from the port of Bessan to the sea, as far as the upper limit of the tidal foreshore;

the Isle from the confluence with the Dronne to the confluence with the Dordogne;

the Loire from the confluence with the Maine to Cordemais (KP 25);

the Marne from the bridge at Bonneuil (KP 169 bis 900) and the lock at St Maur to the confluence with the Seine;

the Rhine

the Nive from the Haitze dam at Ustaritz to the confluence with the Adour;

the Oise from Janville lock to the confluence with the Seine;

the Orb from Sérignan to the sea, as far as the upper limit of the tidal foreshore;

the Rhône from the frontier with Switzerland to the sea, with the exception of the Petit Rhône;

the Saône from the Pont de Bourgogne bridge at Chalon-sur-Saône to the confluence with the Rhône;

the Seine from the lock at Nogent-sur-Seine to the start of the Tancarville Canal;

the Sèvre Niortaise from the lock at Marans at the transverse limit of the sea opposite the guardhouse to the mouth;

the Somme from the downstream side of the Pont de la Portelette bridge at Abbeville to the viaduct of the Noyelles to Saint-Valéry-sur-Somme railway;

the Vilaine from Redon (KP 89,345) to the Arzal Dam;

Lake Amance;

Lake Annecy;

Lake Biscarosse;

Lake Bourget;

Lake Carcans;

Lake Cazaux;

Lake Der-Chantecoq;

Lake Guerlédan;

Lake Hourtin;

Lake Lacanau;

Lake Orient;

Lake Pareloup;

Lake Parentis;

Lake Sanguinet;

Lake Serre-Ponçon;

Lake Temple.

Croatia

Danube: from rkm 1 295 + 500 to rkm 1 433 + 100

River Drava: from rkm 0 to rkm 198 + 600

River Sava: from rkm 210 + 800 to rkm 594 + 000

River Kupa: from rkm 0 to rkm 5 + 900

River Una: from rkm 0 to rkm 15

Hungary

Danube: from rkm 1 812 to rkm 1433

Danube Moson: from rkm 14 to rkm 0

Danube Szentendre: from rkm 32 to rkm 0

Danube Ráckeve: from rkm 58 to rkm 0

River Tisza: from rkm 685 to rkm 160

River Dráva: from rkm 198 to rkm 70

River Bodrog: from rkm 51 to rkm 0

River Kettős-Körös: from rkm 23 to rkm 0

River Hármas-Körös: from rkm 91 to rkm 0

Channel Sió: from rkm 23 to rkm 0

*Lake Velence**Lake Fertő**Netherlands**Rhine*

Sneekemeer, Koevordermeer, Heegermeer, Fluessen, Slotermeer, Tjeukemeer, Beulakkerwilde, Belterwilde, Ramsdiep, Ketelmeer, Zwartemeer, Veluwemeer, Eemmeer, Alkmaardermeer, Gouwzee, Buiten IJ, Afseloten IJ, Noordzeekanaal, port of IJmuiden, Rotterdam port area, Nieuwe Maas, Noord, Oude Maas, Beneden Merwede, Nieuwe Merwede, Dordsche Kil, Boven Merwede, Waal, Bijlandsch Canal, Boven Rijn, Pannersdensch Canal, Geldersche IJssel, Neder Rijn, Lek, Amsterdam-Rhine-Canal, Veerse Meer, Schelde-Rhine-Canal as far as the mouth in the Volkerak, Amer, Bergsche Maas, the Meuse below Venlo, Gooimeer, Europort, Calandkanaal (east from the Benelux harbour), Hartelkanaal

Austria

Danube: from the border with Germany to the border with Slovakia

Inn: from the mouth to the Passau-Ingling Power Station

Traun: from the mouth to km 1,80

Enns: from the mouth to km 2,70

March: to km 6,00

Poland

— River Biebrza from the estuary of the Augustowski Channel to the estuary of the river Narwia

— River Brda from the link with the Bydgoski Channel in Bydgoszcz to the estuary of the river Wisła

- River Bug from the estuary of the river Muchawiec to the estuary of the river Narwia
- Lake Dąbie to the frontier with internal sea waters
- The Augustowski Channel from the link with the river Biebrza to the State border, together with the lakes located along the route of this Channel
- The Bartnicki Channel from Lake Ruda Woda to Lake Bartężek, together with Lake Bartężek
- The Bydgoski Channel
- The Elbląski Channel from Lake Druzno to Lake Jeziorak and Lake Szeląg Wielki, together with these lakes and the lakes on the route of the Channel, and a byway in the direction of Zalewo from Lake Jeziorak to Lake Ewingi, inclusive
- The Gliwicki Channel together with the Kędzierzyński Channel
- The Jagielloński Channel from the link with the river Elbląg to the river Nogat
- The Łaczański Channel
- The Ślesiński Channel with the lakes located along the route of this Channel and Lake Gopło
- The Żerański Channel
- River Martwa Wisła from the river Wisła in Przegalina to the frontier with internal sea waters
- River Narew from the estuary of the river Biebrza to the estuary of the river Wisła, together with Lake Zegrzyński
- River Nogat from the river Wisła to the estuary of the Lagoon of Wisła
- River Noteć (upper) from Lake Gopło to the link with the Górnonotecki Channel and the Górnonotecki Channel and River Noteć (lower) from the link of the Bydgoski Channel to the estuary to River Warta
- River Nysa Łużycka from Gubin to the estuary to River Odra
- River Odra from the town of Racibórz to the link with River Eastern Odra which turns into River Regalica from the Klucz-Ustowo Piercing, together with that river and its side-branches to Lake Dąbie as well as a byway of River Odra from the Opatowice lock to the lock in Wrocław city
- River Western Odra from a weir in Widuchowa (704,1 km of River Odra) to a border with internal sea waters, together with side-branches as well as the Klucz-Ustowo Piercing linking River Eastern Odra with River Western Odra
- River Parnica and the Parnicki Piercing from River Western Odra to a border with internal sea waters
- River Pisa from Lake Roś to the estuary of River Narew
- River Szkarpa from River Wisła to the estuary of the Lagoon of Wisła
- River Warta from the Ślesińskie Lake to the estuary of River Odra
- System of Wielkie Jeziora Mazurskie encompassing the lakes linked by the rivers and channels constituting a main route from Lake Roś (inclusive) in Pisz to the Węgorzewski Channel (inclusive) in Węgorzewo, together with Lakes Seksty, Mikołajskie, Tały, Tałowisko, Kotek, Szymon, Szymoneckie, Jagodne, Boczne, Tajty, Kisajno, Dargin, Łabap, Kirsajty and Święcayty, together with the Giżycki Channel and the Niegociński Channel and the Piękna Góra Channel, and a byway of Lake Ryńskie (inclusive) in Ryn to Lake Nidzkie (up to 3 km, constituting a border with the 'Lake Nidzkie' nature reserve), together with lakes Beldany, Guzianka Mała and Guzianka Wielka
- River Wisła from the estuary of River Przemsza to the link with the Łaczański Channel as well as from the estuary of that Channel in Skawina to the estuary of River Wisła to the Bay of Gdańsk, excluding the Włocławski Reservoir

Romania

Danube: from the Serbian-Romanian border (km 1 075) to the Black Sea on the Sulina Channel-branch

Danube-Black Sea Canal (64,410 km length): from the junction with the Danube river, at km 299,300 of the Danube at Cernavodă (respectively km 64,410 of the Canal), to the Port of Constanta South-Agigea (km '0' of the Canal)

Poarta Albă-Midia Năvodari Canal (34,600 km length): from the junction with the Danube-Black Sea Canal at km 29,410 at Poarta Albă (respectively km 27,500 of the Canal) to the Port of Midia (km '0' of the Canal)

Slovakia

Danube: from rkm 1880,26 to rkm 1708,20

Danube Canal: from rkm 1851,75 to rkm 1811,00

River Váh: from rkm 0,00 to rkm 70,00

River Morava: from rkm 0,00 to rkm 6,00

River Bodrog: from rkm 49,68 to rkm 64,85

Dam lakes: Oravská Priehrada, Liptovská Mara, Zemplínska Šírava

Sweden

Trollhätte canal and Göta älv, from the parallel of latitude through Bastugrunds beacon to the Göta älv bridge

Lake Mälaren

The ports of Stockholm, bounded in the north-west by the Lidingö bridge, in the north-east by a line through the Elfviksgrund lighthouse in bearing 135-315 degrees, and in the south by the Skuru bridge

Södertälje canal and the ports of Södertälje, bounded in the north by Södertälje lock and in the south by the parallel of latitude N 59° 09' 00"

United Kingdom

SCOTLAND	
Leith (Edinburgh)	Within the breakwaters
Glasgow	Strathclyde Loch
Crinan Canal	Crinan to Ardrishaig
Caledonian Canal	The canal sections
NORTHERN IRELAND	
River Lagan	Lagan Weir to Stranmillis
EAST OF ENGLAND	
River Wear (non-tidal)	Old Railway Bridge, Durham to Prebends Bridge, Durham
River Tees	Upriver from Tees Barrage

Grimsby Dock	Inside the locks
Immingham Dock	Inside the locks
Hull Docks	Inside the locks
Boston Dock	Inside the lock gates
Aire and Calder Navigation	Goole Docks to Leeds; junction with Leeds and Liverpool Canal; Bank Dole Junction to Selby (River Ouse Lock); Castleford Junction to Wakefield (Falling Lock)
River Ancholme	Ferriby Sluice to Brigg
Calder and Hebble Canal	Wakefield (Falling Lock) to Broadcut Top Lock
River Foss	From (Blue Bridge) junction with River Ouse to Monk Bridge
Fosdyke Canal	Junction with River Trent to Brayford Pool
Goole Dock	Inside the lock gates
Hornsea Mere	The whole canal
River Hull	From Struncheon Hill Lock to Beverley Beck
Market Weighton Canal	River Humber Lock to Sod Houses Lock
New Junction Canal	The whole canal
River Ouse	From Naburn Lock to Nun Monkton
Sheffield and South Yorkshire Canal	Keadby Lock to Tinsley Lock
River Trent	Cromwell Lock to Shardlow
River Witham	Boston Sluice to Brayford Poole (Lincoln)
WALES AND WEST OF ENGLAND	
River Severn	Above Llanthony and Maisemore Weirs
River Wye	Above Monmouth
Cardiff	Roath Park Lake
Port Talbot	Within the enclosed docks

Swansea	Within the enclosed docks
River Dee	Above Barrelwell Hill water extraction point
River Mersey	The docks (excluding Seaforth Dock)
River Lune	Above Glasson Dock
River Avon (Midland)	Tewkesbury Lock to Evesham
Gloucester	Gloucester City Docks Gloucester/Sharpness Canal
Hollingworth Lake	The whole lake
Manchester Ship Canal	The whole canal and Salford Docks including River Irwell
Pickmere Lake	The whole lake
River Tawe	Between Sea Barrage/Marina and the Morfa Athletics Stadium
Rudyard Lake	The whole lake
River Weaver	Below Northwich
SOUTH OF ENGLAND	
River Nene	Wisbech Cut and River Nene to Dog-in-a-Doublet Lock
River Great Ouse	Kings Lynn Cut and River Great Ouse below West Lynn Road Bridge
Yarmouth	River Yare Estuary from a line drawn across the ends of the north and south entrance piers, including Breydon Water
Lowestoft	Lowestoft Harbour below Mutford Lock to a line drawn across the outer harbour entrance piers
Rivers Alde and Ore	Above the entrance to the River Ore to Westrow Point
River Deben	Above the entrance of the River Deben to Felixstowe Ferry
River Orwell and River Stour	From a line drawn from Fagbury Point to Shotley Point on the River Orwell to Ipswich Dock; and from a line drawn north/south through Erwarton Ness on the River Stour to Manningtree
Chelmer & Blackwater Canal	Eastward of Beeleigh Lock
River Thames and its tributaries	River Thames above Teddington Lock to Oxford

River Adur and Southwick Canal	River Adur above the west end of Tarmac Wharf, and within Southwick Canal
River Arun	River Arun above Littlehampton Marina
River Ouse (Sussex), Newhaven	River Ouse above the north end of North Quay
Bewl Water	The whole lake
Grafham Water	The whole lake
Rutland Water	The whole lake
Thorpe Park Lake	The whole lake
Chichester	East of a line joining Cobnor Point and Chalkdock Point
Christchurch	Within Christchurch Harbour excluding the Run
Exeter Canal	The whole canal
River Avon (Avon)	Bristol City Docks Netham Dam to Pulteney Weir

ANNEX II

MINIMUM TECHNICAL REQUIREMENTS APPLICABLE TO CRAFT ON INLAND WATERWAYS OF ZONES 1, 2, 3
AND 4

The technical requirements applicable to craft are those set out in ES-TRIN standard 2015/1.

ANNEX III

SUBJECTS FOR POSSIBLE ADDITIONAL TECHNICAL REQUIREMENTS APPLICABLE TO CRAFT ON INLAND WATERWAYS OF ZONES 1, 2 AND NON-LINKED 3

Any additional technical requirements adopted by a Member State under Article 23(1) and (2) of this Directive for craft operating on that Member State's territory are limited to the following subjects:

1. Definitions

- Necessary for understanding the additional requirements

2. Stability

- Structure reinforcement
- Certificate/attestation by a recognised classification society

3. Safety clearance and freeboard

- Freeboard
- Safety clearance

4. Watertightness of hull openings and superstructures

- Superstructures
- Doors
- Windows and skylights
- Hold hatches
- Other openings (ventilation pipes, exhaust pipes, etc.)

5. Equipment

- Anchors and anchor chains
- Navigation lights
- Sound signals
- Compass
- Radar
- Transmitting and receiving installations
- Life-saving equipment
- Availability of nautical charts

6. Additional provisions for passenger vessels

- Stability (wind strength, criteria)
- Life-saving equipment
- Freeboard
- Safety clearance
- Wheelhouse visibility

7. Convoys and container transport
 - Pusher connection craft-lighter
 - Stability of craft or lighters carrying containers
-

ANNEX IV

SUBJECTS FOR POSSIBLE REDUCTIONS OF THE TECHNICAL REQUIREMENTS APPLICABLE TO CRAFT ON INLAND
WATERWAYS OF ZONES 3 AND 4

Any reduced technical requirements allowed by a Member State under Article 23 (4) of this Directive for vessels operating exclusively on Zone 3 or Zone 4 waterways on the territory of that Member State are restricted to the following subjects:

Zone 3

- Anchor equipment, including length of anchor chains
- (Forward) speed
- Collective life-saving appliances
- Two-compartment status
- Wheelhouse visibility

Zone 4

- Anchor equipment, including length of anchor chains
 - (Forward) speed
 - Life-saving appliances
 - Two-compartment status
 - Wheelhouse visibility
 - Second independent propulsion system
-

ANNEX V

DETAILED PROCEDURAL PROVISIONS

*Article 2.01***Inspection bodies**

1. Inspection bodies shall be set up by the Member States.
2. Inspection bodies shall consist of a chairman and experts.

At least the following shall form part of each body as experts:

- (a) an official from the administration that is responsible for inland navigation;
 - (b) an expert on the design of inland waterway vessels and their engines;
 - (c) a nautical expert in possession of an inland waterways boatmaster's licence which authorises the holder to sail the vessel to be inspected.
3. The Chairman and the experts within each body shall be designated by the authorities in the Member State in which the body is set up. On taking up their duties, the Chairman and the experts shall submit a written declaration that they will perform them completely independently. No declaration shall be required from officials.
 4. Inspection bodies may be assisted by specialist experts in accordance with the national provisions applying.

Article 2.02

(Left empty)

*Article 2.03***Presentation of the craft for inspection**

1. The owner, or his representative, shall present the craft in an unladen, cleaned and equipped state. He shall provide any assistance needed for the inspection, such as providing an appropriate dinghy and staff, and uncovering any parts of the hull or fittings that are not directly accessible or visible.
2. The inspection body shall demand a dry inspection on the first occasion. That dry inspection may be dispensed with if a classification certificate or a certificate from a recognised classification society to the effect that the construction meets its requirements can be produced or if a certificate is produced which shows that a competent authority has already carried out a dry inspection for other purposes. Where there is a periodical inspection or an inspection, as provided for in Article 14 of this Directive, the inspection body may require an inspection out of the water.

The inspection body shall conduct trial runs during an initial inspection of motor vessels or convoys or where major changes are made to the propulsion or steering equipment.

3. The inspection body may require further operational tests and other supporting documents. That provision shall also apply during the building of the craft.

*Article 2.04**(Left empty)**Article 2.05**(Left empty)**Article 2.06**(Left empty)**Article 2.07***Particulars in and amendments to the Union inland navigation certificate**

1. The owner of a craft, or his representative, shall bring to the notice of the competent authority any change in the name or ownership of a craft, any re-measurement, and any change in the registration or home port, and shall send the Union inland navigation certificate to that authority for amendment.
2. Any competent authority may add any information or change to the Union inland navigation certificate.
3. Where a competent authority adds any alteration or information to a Union inland navigation certificate, it shall inform the competent authority which issued the Union inland navigation certificate thereof.

*Article 2.08**(Left empty)**Article 2.09***Periodical inspection**

1. Craft shall be subjected to a periodical inspection before expiry of their Union inland navigation certificate.
2. The competent authority shall again lay down the period of validity of the Union inland navigation certificate in accordance with the results of that inspection.
3. The period of validity shall be entered on the Union inland navigation certificate and be brought to the attention of the authority having issued that Union inland navigation certificate.
4. If, rather than have its period of validity extended, a Union inland navigation certificate is replaced by a new version, the earlier Union inland navigation certificate shall be returned to the competent authority which issued it.

*Article 2.10***Voluntary inspection**

The owner of a craft, or his representative, may voluntarily request an inspection at any time.

That request for an inspection shall be acted upon.

Article 2.11

(Left empty)

Article 2.12

(Left empty)

Article 2.13

(Left empty)

Article 2.14

(Left empty)

*Article 2.15***Expenses**

The owner of a craft, or his representative, shall bear all of the costs arising from the inspection of the craft and the issuance of the Union inland navigation certificate in accordance with a special set of charges drawn up by each of the Member States.

*Article 2.16***Information**

The competent authority may allow persons demonstrating a well-founded interest to be informed of the contents of a Union inland navigation certificate and may issue those persons with extracts or copies of the Union inland navigation certificates certified as true and designated as such.

*Article 2.17***Register of Union inland navigation certificates**

1. Competent authorities shall keep the original, or a copy of all the Union inland navigation certificates they have issued, and shall enter on these any information and alterations, together with any Union inland navigation certificate cancellations and replacements. They shall update the register mentioned in Article 17 of this Directive accordingly.

2. In order to perform administrative measures for maintaining safety and ease of navigation and for implementation of Articles 2.02 to 2.15 of this Annex as well as Articles 6, 9, 10, 13, 14, 15, 20, 21 and 22 of this Directive read-only access to the register in accordance with the model set out in Annex II will be granted to competent authorities of other Member States, Contracting States of the Mannheim Convention and, as far as an equivalent level of privacy is guaranteed, to third countries on the basis of administrative agreements.

Article 2.18

Unique European vessel identification number

1. The unique European vessel identification number (ENI) consists of eight Arabic numerals according to Annex II to this Directive.
2. Unless the craft possesses an ENI at the time of issue of the Union inland navigation certificate, it shall be assigned to that craft by the competent authority of the Member State in which the craft has been registered or has its home port.

As far as craft from countries where an assignation of an ENI is not possible are concerned, the ENI to be entered on the Union inland navigation certificate shall be assigned by the competent authority issuing that Union inland navigation certificate.

3. The owner of a craft, or his representative, shall apply to the competent authority for assignment of the ENI. The owner, or his representative, shall also be responsible for affixing to the craft the ENI which is entered in the Union inland navigation certificate.

Article 2.19

(Left empty)

Article 2.20

Notifications

Each Member State, or its competent authorities, shall notify the Commission and the other Member States or the other competent authorities:

- (a) of the names and addresses of the technical services which, together with their national competent authority are responsible for the application of Annex II;
- (b) of the data sheet as shown in Annex II on the on-board sewage treatment plant types for which an approval has been issued since the last notification;
- (c) of the recognised type-approvals for on-board sewage treatment systems based on different standards than those laid down in Annex II, for the use on Member States' national waterways;
- (d) within one month of any withdrawal of a type-approval and of the reasons for such withdrawal for on-board sewage treatment systems;
- (e) of any authorised special anchor following an application to reduce anchor mass, giving its type designation and authorised reduction of anchor mass. The competent authority grants authorisation to the applicant at the earliest three months after notifying the Commission provided that the latter does not raise objections;

-
- (f) of the radar navigation equipment and of the rate-of-turn indicators for which they have issued type-approval. The relevant notice shall include the type-approval number assigned, as well as the type designation, the name of the manufacturer, the name of the holder of the type-approval and the date of the type-approval;
 - (g) of the competent authorities responsible for approval of specialised firms that can do the installation, replacement, repair or maintenance of radar navigation equipment and rate-of-turn indicators.

ANNEX VI

CLASSIFICATION SOCIETIES

Criteria for the recognition of classification societies

Classification societies seeking recognition pursuant to Article 21 of this Directive shall meet all the following criteria:

- (1) the classification society shall be able to document extensive experience in assessing the design and construction of inland waterway vessels. The classification society shall have comprehensive rules and regulations for the design, construction and periodic inspection of inland waterway vessels, in particular for calculating stability in accordance with Part 9 of the Regulations annexed to the ADN as referred to in Annex II. Those rules and regulations are to be published in, at least, Dutch, English, French or German, and shall be continuously updated and improved through research and development programmes. The rules and regulations must not conflict with the provisions of Union law or with international agreements in force;
- (2) the classification society shall publish its register of vessels annually;
- (3) the classification society shall not be controlled by shipowners or shipbuilders or by others engaged commercially in the design, manufacture, fitting-out, repair, operation or insurance of ships. The classification society shall not be dependent on a single commercial enterprise for its revenue;
- (4) the headquarters of the classification society or a subsidiary authorised to give a ruling and to act in all areas incumbent on it under the regulations governing inland waterway transport, shall be located in one of the Member States;
- (5) the classification society and its experts shall have a good reputation in inland waterway transport; the experts shall be able to provide proof of their professional abilities. They shall act on the responsibility of the classification society;
- (6) the classification society shall have a significant technical, managerial, support, inspection and research staff, in proportion to the tasks and the vessels classified and catering also for developing capability and updating the regulations. It shall have inspectors in at least one Member State;
- (7) the classification society shall be governed by a code of ethics;
- (8) the classification society shall be managed and administered in such a way as to ensure the confidentiality of information required by a Member State;
- (9) the classification society shall be prepared to provide relevant information to a Member State;
- (10) the classification society's management shall define and document its policy and objectives for, and commitment to, quality and ensure that this policy is understood, implemented and maintained at all levels in the classification society;
- (11) the classification society shall prepare and implement and shall maintain an effective internal quality system based on the relevant parts of internationally recognised quality standards and complying with the EN ISO/IEC 17020:2004, as interpreted by the IACS quality system certification scheme requirements. The quality system must be certified by an independent body of auditors recognised by the administration of the State in which the classification society has its headquarters or branch, as provided for in point (4), and which, inter alia, ensures that:
 - (a) the classification society's rules and regulations are established and maintained in a systematic manner;
 - (b) the classification society's rules and regulations are complied with;
 - (c) the requirements of the statutory work for which the classification society is authorised are satisfied;
 - (d) the responsibilities, powers and interrelation of personnel whose work affects the quality of the classification society's services are defined and documented;

- (e) all work is carried out under controlled conditions;
 - (f) a supervisory system is in place which monitors the actions and work carried out by surveyors and technical and administrative staff employed directly by the classification society;
 - (g) the requirements of major statutory work for which the classification society is authorised are only carried out or directly supervised by its exclusive surveyors or by exclusive surveyors of other recognised classification societies;
 - (h) a system for qualification of surveyors and continuous updating of their knowledge is implemented;
 - (i) records are maintained, demonstrating achievement of the required standards in the items covered by the services performed, as well as the effective operation of the quality system; and
 - (j) a comprehensive system of planned and documented internal audits of quality-related activities exists in all locations;
- (12) the quality system must be certified by an independent body of auditors recognised by the administration of the Member State in which the classification society has its headquarters or branch, as provided for in point 4;
- (13) the classification society shall undertake to bring its requirements into line with the appropriate Union directives and to provide the Commission with all relevant information in good time;
- (14) the classification society shall undertake periodically to consult with the classification societies already recognised in order to guarantee the equivalence of their technical standards and of implementation thereof, and to allow participation in the development of its rules and regulations by representatives of a Member State and other parties concerned.
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ANNEX VII
CORRELATION TABLE

Directive 2006/87/EC	This Directive
—	Article 1
Article 2	Article 2
—	Article 3
Article 1	Article 4
—	Article 5
Article 9	Article 6(1) and (3)
Article 8(1)	Article 6(2) and (4)
Article 8(4)	Article 6(5)
Article 3	Article 7
Article 4	Article 8
Article 11(2)	Article 9
Article 11(1)	Article 10
Article 14	Article 11
Article 13	Article 12
Article 12	Article 13
Article 15	Article 14
Article 16	Article 15
Article 18	Article 16
—	Article 17
—	Article 18
—	Article 19
Article 10	Article 20
—	Article 21
Article 17	Article 22
Article 5	Article 23
Article 6 has been deleted by Directive 2008/68/EC of the European Parliament and of the Council ⁽¹⁾	—
Article 7(1) to (3)	Article 24
—	Article 25
—	Article 26
—	Article 27
—	Article 28

Directive 2006/87/EC	This Directive
Article 8(2) and (3)	Article 29
—	Article 30
Article 20(1)	Article 31
Article 20(2)	—
Article 22	—
—	Article 32
Article 19	Article 33
—	Article 34
Article 24	Article 35
Article 21	Article 36
Article 23	Article 37(1) and (2)
Article 7(4)	Article 37(3)
—	Article 38
—	Article 39
Article 25	—
Article 26	—
Article 27	Article 40

(¹) Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (OJ L 260, 30.9.2008, p. 13).

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