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I

(Acts whose publication is obligatory)

SEVENTH DIRECTIVE 94/21/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 30 May 1994

on summer-time arrangements

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure referred to in Article 189b of the Treaty ⁽³⁾,

Whereas the sixth Council Directive 92/20/EEC of 26 March 1992 on summer-time arrangements ⁽⁴⁾ introduced a common date and time throughout the Community for the beginning of the summer-time period for 1993 and 1994 and, for the end of that period in those years, two different dates, one for Member States other than Ireland and the United Kingdom and another for Ireland and the United Kingdom;

Whereas, given that Member States apply summer-time arrangements, it is important for the functioning of the internal market that a common date and time for the beginning and end of the summer-time period should be fixed throughout the Community from 1995 onwards;

Whereas, with regard to the principle of subsidiarity, Community action is necessary to ensure complete harmonization of the timing with a view to facilitating transport and communications and reducing the related costs;

Whereas the date considered most appropriate by the Member States for the end of the summer-time period is

the end of October and not the end of September as in the past;

Whereas the summer-time period should in future finish at the end of October; whereas, however, for technical reasons to do with the time needed by certain transport sectors to adjust, summer time for 1995 should still finish at the end of September;

Whereas for that year the summer-time period should continue to end on a different date for Ireland and the United Kingdom;

Whereas Article 4 of the sixth Directive provides that the Council, acting on a proposal from the Commission, shall adopt before 1 January 1994 the arrangements to apply from 1995 onwards;

Whereas, for geographical reasons, common summer-time arrangements should not apply to the overseas territories of the Member States;

Whereas it is appropriate to re-examine the summer-time period and whereas arrangements should therefore be adopted for 1995, 1996 and 1997 only,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive, 'summer-time period' shall mean the period of the year during which clocks are put forward by 60 minutes compared with the rest of the year.

Article 2

In each Member State the summer-time period for 1995, 1996 and 1997 shall begin at 1 a.m. Greenwich Mean Time (GMT) on the last Sunday in March, i.e.:

— in 1995: on 26 March,

⁽¹⁾ OJ No C 278, 16. 10. 1993, p. 13.

⁽²⁾ OJ No C 34, 2. 2. 1994, p. 21.

⁽³⁾ Opinion of the European Parliament of 17 December 1993 (OJ No C 20, 24. 1. 1994). Council common position of 4 March 1994 (OJ No C 137, 19. 5. 1994, p. 38) and Decision of the European Parliament of 22 April 1994 (OJ No C 128, 9. 5. 1994).

⁽⁴⁾ OJ No L 89, 4. 4. 1992, p. 28.

- in 1996: on 31 March,
- in 1997: on 30 March.

Article 3

1. In each Member State the summer-time period shall end at 1 a.m. Greenwich Mean Time (GMT) on the last Sunday in September for 1995 and on the last Sunday in October for 1996 and 1997, i.e.:

- in 1995: on 24 September,
- in 1996: on 27 October,
- in 1997: on 26 October.

2. However, in Ireland and in the United Kingdom the summer-time period for 1995 shall end at 1 a.m. Greenwich Mean Time (GMT) on the fourth Sunday in October, i.e. on 22 October.

Article 4

The arrangements to apply from 1998 onwards shall be adopted by 1 January 1997 on a proposal from the Commission to be submitted before 1 January 1996.

Article 5

This Directive shall not apply to the overseas territories of the Member States.

Article 6

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1994 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 7

This Directive is addressed to the Member States.

Done at Brussels, 30 May 1994.

*For the
European Parliament*
The President
E. KLEPSCH

For the Council
The President
C. SIMITIS

DIRECTIVE 94/22/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 30 May 1994

on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 57 (2), first and third sentences, Articles 66 and 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure referred to in Article 189b of the Treaty ⁽³⁾,

Whereas the internal market comprises an area without internal frontiers in which the free movement of goods, services, persons and capital is ensured; whereas the necessary measures must be adopted for its operation;

Whereas in its resolution of 16 September 1986 ⁽⁴⁾, the Council identified as an objective of the energy policy of the Community and the Member States the greater integration, free from barriers to trade, of the internal energy market with a view to improving security of supply, reducing costs and improving economic competitiveness;

Whereas the Community largely depends on imports for its hydrocarbon supply; whereas it is consequently advisable to encourage the best possible prospection, exploration and production of the resources located in the Community;

Whereas Member States have sovereignty and sovereign rights over hydrocarbon resources on their territories;

Whereas the Community is a signatory to the United Nations Convention on the Law of the Sea;

Whereas steps must be taken to ensure the non-discriminatory access to and pursuit of activities relating to the prospection, exploration and production of hydrocarbons under conditions which encourage

greater competition in this sector and thereby to favour the best prospection, exploration and production of resources in Member States and to reinforce the integration of the internal energy market;

Whereas, for this purpose, it is necessary to set up common rules for ensuring that the procedures for granting authorizations for the prospection, exploration and production of hydrocarbons must be open to all entities possessing the necessary capabilities; whereas authorizations must be granted on the basis of objective, published criteria; whereas the conditions under which authorizations are granted must likewise be known in advance by all entities taking part in the procedure;

Whereas Member States must retain the options to limit the access to and the exercise of these activities for reasons justified by public interest and to subject to the payment of a financial contribution or a contribution in hydrocarbons, the detailed arrangements of the said contribution having to be fixed in such a way as not to interfere in the management of entities; whereas these options must be used in a non-discriminatory way; whereas, with the exception of the obligations related to the use of this option, steps must be taken to avoid imposing on entities, conditions and obligations which are not justified by the need to perform this activity properly; whereas the activities of entities must be monitored only to the extent necessary to ensure their compliance with these obligations and conditions;

Whereas the extent of the areas covered by an authorization and the duration of the authorization must be limited with a view to preventing the reservation to a single entity of an exclusive right over an area which can be prospected, explored and brought into production more efficiently by several entities;

Whereas Member States' entities should enjoy in third countries a treatment comparable to that enjoyed by third countries' entities in the Community by virtue of this Directive; whereas it is necessary to lay down a procedure to this end;

Whereas this Directive should apply to authorizations issued after the date by which Member States have to bring into force the laws, regulations and administrative provisions necessary to comply with this Directive;

Whereas Council Directive 90/531/EEC of 17 September 1990 on the procurement procedures of entities operating in the water, energy, transport and telecommunications

⁽¹⁾ OJ No C 139, 2. 6. 1992, p. 12.

⁽²⁾ OJ No C 19, 25. 1. 1993, p. 128.

⁽³⁾ Opinion of the European Parliament of 18 November 1992 (OJ No C 337, 21. 12. 1992, p. 145). Council common position of 22 December 1993 (OJ No C 101, 9. 4. 1994, p. 14) and Decision of the European Parliament of 9 March 1994 (not yet published in the Official Journal).

⁽⁴⁾ OJ No C 241, 25. 9. 1986, p. 1.

sectors ⁽¹⁾ and Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors ⁽²⁾ apply to the entities in the energy sector as regards their procurement of supplies, of works and of services; whereas the application of the alternative arrangements provided for under Article 3 of Directive 90/531/EEC is subject in particular to the condition that, in the Member State requesting the application of these arrangements, authorizations be granted in a non-discriminatory and transparent manner; whereas a Member State fulfils this condition from the moment when and for as long as it complies with the requirements of this Directive; whereas it is consequently necessary to amend Directive 90/531/EEC;

Whereas Article 36 of Directive 90/531/EEC provides for a review within four years, in the light of developments concerning in particular progress in market opening and the level of competition, of the field of application of that Directive. This review of the field of application includes hydrocarbon exploration and extraction;

Whereas Denmark is in a special situation, due to the fact that it is obliged to enter into negotiations on a possible continuation of the activities after the expiry of the concession, issued on 8 July 1962, concerning the areas which are relinquished on 8 July 2012 and that Denmark will thus be accorded a derogation concerning these areas,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive:

1. 'competent authorities' means the public authorities, as defined in Article 1 (1) of Directive 90/531/EEC, which are responsible for granting authorization and/or monitoring use thereof;
2. 'entity' means any natural or legal person or any group of such persons which applies for, is likely to apply for or holds an authorization;
3. 'authorization' means any law, regulation, administrative or contractual provision or instrument issued thereunder by which the competent authorities of a Member State entitle an entity to exercise, on its own behalf and at its own risk, the exclusive right to prospect or explore for or produce hydrocarbons in a geographical area. An authorization may be granted for each activity separately or for several activities at a time;

4. 'public entity' means a public undertaking as defined in Article 1 (2) of Directive 90/531/EEC.

Article 2

1. Member States retain the right to determine the areas within their territory to be made available for the exercise of the activities of prospecting, exploring for and producing hydrocarbons.
2. Whenever an area is made available for the exercise of the activities set out in paragraph 1, Member States shall ensure that there is no discrimination between entities as regards access to and exercise of these activities.

However, Member States may refuse, on grounds of national security, to allow access to and exercise of these activities to any entity which is effectively controlled by third countries or third country nationals.

Article 3

1. Member States shall take the necessary measures to ensure that authorizations are granted following a procedure in which all interested entities may submit applications in accordance either with paragraph 2 or 3.
2. This procedure shall be initiated:
 - (a) either at the initiative of the competent authorities by means of a notice inviting applications, to be published in the *Official Journal of the European Communities* at least 90 days before the closing date for applications;
 - (b) or by means of a notice inviting applications, to be published in the *Official Journal of the European Communities* following submission of an application by an entity without prejudice to Article 2 (1). Other interested entities shall have a period of at least 90 days after the date of publication in which to submit an application.

Notices shall specify the type of authorization, the geographical area or areas in part or all of which an application has been or may be made and the proposed date or time limit for granting authorization.

Where preference is given to applications by entities which are single natural or legal persons, the notice shall so specify.

3. Member States may grant authorizations without initiating a procedure under paragraph 2 where the area for which authorization is requested:

- (a) is available on a permanent basis; or

⁽¹⁾ OJ No L 297, 29. 10. 1990, p. 1.

⁽²⁾ OJ No L 199, 9. 8. 1993, p. 84.

- (b) has been the subject of a previous procedure according to paragraph 2 which has not resulted in the grant of an authorization; or
- (c) has been relinquished by an entity and does not fall automatically under (a).

A Member State wishing to apply this paragraph shall within three months of the adoption of this Directive or, in case of Member States who have not yet introduced such procedures, without delay arrange for the publication in the *Official Journal of the European Communities* of a notice indicating the areas within its territory which are available under this paragraph and where detailed information in this regard can be obtained. Any significant change in this information shall be the subject of an additional notice. However, no application for an authorization under this paragraph can be considered until after the publication of the relevant notice under this text.

4. A Member State may decide not to apply the provisions of paragraph 1 if and to the extent that geological or production considerations justify the granting of the authorization for an area to the holder of an authorization for a contiguous area. The Member State concerned shall ensure that the holders of authorizations for any other contiguous areas are able to submit applications in such a case and are given sufficient time to do so.

5. The following shall not be considered as the grant of an authorization within the meaning of paragraph 1:

- (a) the grant of an authorization solely by reason of a change of name or ownership of an entity holding an existing authorization, a change in the composition of such an entity or a transfer of an authorization;
- (b) the grant of an authorization to an entity having another form of authorization where the possession of the latter authorization implies a right to the grant of the former authorization;
- (c) the decision of the competent authorities taken within the framework of an authorization (whether or not such authorization was granted before the date fixed in Article 14) and relating to the commencement, interruption, prolongation or cessation of the activities or to the prolongation of the authorization itself.

6. Notwithstanding the initiation of the procedures mentioned in paragraph 2, Member States retain the option to refuse the granting of authorizations, whilst ensuring that this option does not give rise to discrimination between entities.

Article 4

Member States shall take the necessary measures to ensure that:

- (a) if the geographical areas are not delimited on the basis of a prior geometric division of the territory, the extent of each area is determined in such a way that it does not exceed the area justified by the best possible exercise of the activities from the technical and economic points of view. In the case of authorizations granted following the procedures laid down in Article 3 (2), objective criteria shall be established to this end and shall be made available to the entities prior to the submission of applications;
- (b) the duration of an authorization does not exceed the period necessary to carry out the activities for which the authorization is granted. However, the competent authorities may prolong the authorization where the stipulated duration is insufficient to complete the activity in question and where the activity has been performed in accordance with the authorization;
- (c) entities do not retain exclusive rights in the geographical area for which they have received an authorization for longer than is necessary for the proper performance of the authorized activities.

Article 5

Member States shall take the necessary measures to ensure that:

1. authorizations are granted on the basis of criteria concerning, in all cases:

- (a) the technical and financial capability of the entities; and
- (b) the way in which they propose to prospect, to explore and/or to bring into production the geographical area in question;

and, where applicable:

- (c) if the authorization is put up for sale, the price which the entity is prepared to pay in order to obtain the authorizations;
- (d) if, following evaluation under the criteria (a), (b) and, where applicable, (c), two or more applications have equal merit, other relevant objective and non-discriminatory criteria, in order to make a final choice among these applications.

The competent authorities may also take account, when appraising applications, of any lack of efficiency and responsibility displayed by the applicants in operations under previous authorizations.

Where the competent authorities determine the composition of an entity to which they may grant an authorization, they shall make that determination on the basis of objective and non-discriminatory criteria.

Where the competent authorities determine the operator of an entity to which they may grant an authorization, they shall make that determination on the basis of objective and non-discriminatory criteria.

The criteria shall be drawn up and published in the *Official Journal of the European Communities* before the start of the period for submission of applications. Member States which have already published the criteria in their official journals may limit the publication in the *Official Journal of the European Communities* to a reference to the publication in their official journals. However, any change in criteria shall be published in full in the *Official Journal of the European Communities*;

2. the conditions and requirements concerning the exercise or termination of the activity which apply to each type of authorizations by virtue of the laws, regulations and administrative provisions in force at the time of submission of the applications, whether contained in the authorization or being one of the conditions to be accepted prior to the grant of such authorization, are established and made available to interested entities at all times. In the case provided for in Article 3 (2) (a), they may be made available only from the date starting from which applications for authorization may be submitted;
3. any changes made to the conditions and requirements in the course of the procedure are notified to all interested entities;
4. the criteria, conditions and requirements referred to in this Article are applied in a non-discriminatory manner;
5. any entity whose application for an authorization is unsuccessful is, if the entity so wishes, informed of the reasons for the decision.

Article 6

1. Member States shall ensure that the conditions and requirements referred to in Article 5 (2) and the detailed obligations for use of a specific authorization are justified exclusively by the need to ensure the proper performance of the activities in the area for which an authorization is requested, by the application of paragraph 2 or by the payment of a financial contribution or a contribution in hydrocarbons.

2. Member States may, to the extent justified by national security, public safety, public health, security of

transport, protection of the environment, protection of biological resources and of national treasures possessing artistic, historic or archaeological value, safety of installations and of workers, planned management of hydrocarbon resources (for example the rate at which hydrocarbons are depleted or the optimization of their recovery) or the need to secure tax revenues, impose conditions and requirements on the exercise of the activities set out in Article 2 (1).

3. The rules for payment of contributions referred to in paragraph 1, including any requirement for State participation, shall be fixed by Member States in such a way as to ensure that the independence of management of entities is maintained.

However, where the grant of authorizations is subject to the State's participation in the activities and where a legal person has been entrusted with the management of this participation or where the State itself manages the participation, neither the legal person nor the State shall be prevented from assuming the rights and obligations associated with such participation, equivalent to the importance of the participation provided that the legal person or the State shall not be party to information nor exercise any voting rights on decisions regarding sources of procurement for entities, that the legal person or the State in combination with any public entity or entities shall not exercise a majority voting right on other decisions and that any vote by the State or the legal person shall be based exclusively on transparent, objective and non-discriminatory principles, and shall not prevent the management decisions of the entity from being based on normal commercial principles.

However, the provisions of the preceding sub-paragraph shall not prevent the legal person or the State from opposing a decision by the holders of an authorization which would not respect the conditions and requirements, specified in the authorization, regarding depletion policy and protection of the financial interests of the State.

The option to oppose a decision shall be exercised in a non-discriminatory manner, particularly regarding investment decisions and sources of supply of entities. Where the State's participation in the activities is managed by a legal person which also holds the authorizations, the Member State shall put in place arrangements requiring that legal person to keep separate accounts for its commercial role and its role as manager of the State's participation and guaranteeing that there is no flow of information from the part of the legal person responsible for the management of the State's participation to the part of the legal person which holds authorizations in its own right. However, where the part of the legal person responsible for the management of the State's participation engages the part of the legal person which holds authorization as a consultant, the former may make available any information which is necessary for the consultancy work to be carried out. The holders

of all authorizations to which the information relates shall be informed in advance of what information will be given in this way and shall be given sufficient time to raise objections.

4. Member States shall ensure that the monitoring of entities under an authorization is limited to that necessary to ensure compliance with the conditions, requirements and obligations referred to in paragraph 1. In particular, they shall take the measures necessary to ensure that no entity is required, by any law, regulation or administrative requirement, or by any agreement or undertaking, to provide information on its intended or actual sources of procurement, except at the request of the competent authorities and exclusively with a view to the objectives set out in Article 36 of the Treaty.

Article 7

Without prejudice to the provisions concerning or contained in individual authorizations and to the provisions of Article 3 (5) (b) legal, regulatory and administrative provisions which reserve to a single entity the right to obtain authorizations in a specific geographical area within the territory of a Member State shall be abolished by the Member States concerned before 1 January 1997.

Article 8

1. Member States shall inform the Commission of any general difficulty encountered, *de jure* or *de facto*, by entities in access to or exercise of the activities of prospecting, exploring for and producing hydrocarbons in third countries, which have been brought to their attention. Member States and the Commission shall ensure that commercial confidentiality is respected.

2. The Commission shall report to the European Parliament and the Council before 31 December 1994, and periodically thereafter, on the situation of entities in third countries and on the state of any negotiations undertaken pursuant to paragraph 3 with those countries or in the framework of international organizations.

3. Whenever the Commission establishes, either on the basis of the reports referred to in paragraph 2 or on the basis of other information, that a third country is not granting Community entities, as regards access to or exercise of the activities referred to in paragraph 1, treatment comparable to that which the Community grants entities from that third country, the Commission may submit proposals to the Community for the appropriate mandate for negotiation with a view to obtaining comparable competitive opportunities for Community entities. The Council shall decide by qualified majority.

4. In the circumstances described in paragraph 3, the Commission may at any time propose that the Council authorize one or more Member States to refuse an authorization to an entity which is effectively controlled by the third country concerned and/or by nationals of that third country.

The Commission may make such a proposal on its own initiative or at the request of a Member State.

The Council shall act by qualified majority as soon as possible.

5. Measures taken pursuant to this Article shall be without prejudice to the Community's obligations under any international agreement governing access to an exercise of the activities of prospecting, exploring for and producing hydrocarbons.

Article 9

Each Member State shall publish and communicate to the Commission an annual report which shall include information on the geographical areas which have been opened for prospecting, exploration and production, authorizations granted, entities holding authorizations and the composition thereof and the estimated reserves contained in its territory.

This provision does not imply any obligation for Member States to publish information of a commercially confidential nature.

Article 10

Member States shall notify the Commission, no later than 1 May 1995, of the competent authorities. Member States shall notify the Commission without delay of any subsequent changes. The Commission shall publish the list of competent authorities and any changes thereto in the *Official Journal of the European Communities*.

Article 11

This Directive applies to authorizations granted from the date laid down in Article 14.

Article 12

The following paragraph shall be added to Article 3 of Directive 90/531/EEC:

'5. As regards the exploitation of geographical areas for the purpose of prospecting for or extracting oil or gas, paragraphs 1 to 4 shall apply as follows from the date on which the Member State concerned has complied with the provisions of the European

Parliament and Council Directive 94/22/EC of 30 May on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons (*):

- (a) the conditions laid down in paragraph 1 shall be considered to be satisfied with effect from that date without prejudice to paragraph 3;
- (b) with effect from that date, the Member State referred to in paragraph 4 shall be required to communicate only the provisions relating to compliance with the conditions referred to in paragraphs 2 and 3.

(*) OJ No L 164, 30. 6. 1994, p. 3.

Article 13

The provisions of Articles 3 and 5 shall not apply to new authorizations granted by Denmark before 31 December 2012, in respect of the areas which are relinquished on 8 July 2012 upon expiry of the authorization issued on 8 July 1962. The new authorizations shall be granted on the basis of objective and non-discriminatory principles.

Consequently, this Article shall not create any precedent for Member States.

Article 14

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with

this Directive by 1 July 1995. They shall forthwith inform the Commission thereof.

When Member States adopt these measures they shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The methods of making such reference shall be laid down by Member States.

Article 15

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 16

This Directive is addressed to the Member States.

Done at Brussels, 30 May 1994.

*For the
European Parliament
The President
E. KLEPSCH*

*For the Council
The President
C. SIMITIS*

COUNCIL DIRECTIVE 94/24/EC

of 8 June 1994

amending Annex II to Directive 79/409/EEC on the conservation of wild birds

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130s (1) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189c of the Treaty,

Whereas Annex II to Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds ⁽³⁾ should be amended to take account of the latest knowledge on the situation of avifauna;

Whereas several Member States have asked the Commission to amend Annex II/2 to include certain species which hitherto could not legally be hunted;

Whereas Article 7 (4) of the same Directive requires Member States to ensure that the practice of hunting complies with the principles of wise use and ecologically balanced control of the species of birds concerned;

Whereas owing to their geographical distribution and population levels in some countries certain species may be hunted or controlled locally with the result that certain requests for additions to Annex II/2 can be approved;

Whereas the species *Limosa limosa*, *Limosa lapponica* and *Numenius arquata* should be removed from Annex II/2 in respect of Italy in order to protect the globally endangered species *Numenius tenuirostris* which they

resemble so closely in their habits as much as in their appearance that there are exceptional risks of confusion;

Whereas permitting the hunting of the species listed in Annex II/2 is merely an option of which the Member States may or may not avail themselves; whereas, therefore, they are not required to take measures to do so and, if they do so decide, they may do so even after the date laid down for the application of this Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The text of the Annex to this Directive shall be substituted for that of Annex II/2 to Directive 79/409/EEC.

Article 2

The Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with this Directive by 30 September 1995.

When Member States adopt those provisions they shall include references to this Directive or accompany them with such references on their official publication. The Member States shall lay down the manner in which such references shall be made.

Article 3

This Directive is addressed to the Member States.

Done at Luxembourg, 8 June 1994.

For the Council
The President
E. PAPAIOI

⁽¹⁾ OJ No C 255, 2. 10. 1992, p. 5.

⁽²⁾ OJ No C 191, 22. 7. 1991, p. 14.

⁽³⁾ OJ No L 103, 25. 4. 1979, p. 1. Directive last amended by Directive 91/244/EEC (OJ No L 115, 8. 5. 1991, p. 41).

ANNEX

'ANEXO II/2 — BILAG II/2 — ANHANG II/2 — ΠΑΡΑΡΤΗΜΑ II/2 — ANNEXE II/2 — ALLEGATO II/2 — BIJLAGE II/2 — ANEXO II/2

	Español	Dansk	Deutsch	Ελληνικά	English	Français	Italiano	Nederlands	Português
25. Cygnus olor	Cisne vulgar	Knopsvane	Höckerschwan	Βουβόσυκκος	Mute swan	Cygne tuberculé	Cigno reale	Knobbelswaan	Cisne-vulgar
26. Anser brachyrhynchus	Ansar piquicorto	Kortnæbbet gås	Kurz-schnabelgans	Βραχυρρομφόχρηνα	Pink-footed goose	Oie à bec court	Oca zamperose	Kleine rietgans	Ganso-de-bico-curto
27. Anser albifrons	Ansar caretto grande	Blisgås	Bläßgans	Ασπρομετωπόχηνα	White-fronted goose	Oie rieuse	Oca lombardella	Kolgans	Ganso-grande-de-testa-branca
28. Branta bernicla	Barnacla carinegra	Knortegås	Ringelgans	Λακτυλιδόχηνα	Brent goose	Bernache cravant	Oca colombaccio	Rotgans	Ganso-de-faces-negras
29. Netta rufina	Pato colorado	Rødhovedet and	Kolbenente	Ροπαλόπατια	Red-crested Pochard	Nette rousse	Fistione turco	Krooneend	Pato-de-bico-vermelho
30. Aythya marila	Porrón bastardo	Bjergand	Bergente	Μαυρόλοπατια (γκριζόπατια)	Scaup	Fuligule milouinan	Moretta grigia	Toppereend	Zarro-bastardo
31. Somateria mollissima	Eider	Ederfugl	Eiderente	Πουτοπόπατια	Eider	Eider à duvet	Edredone	Eidereend	Eider-edredão
32. Clangula hyemalis	Havelda	Havlit	Eisente	Χιονόπατια	Long-tailed duck	Harelda de Miquelon	Moretta codona	Ijseend	Pato-de-causa-afilada
33. Melanitta nigra	Negrón Común	Sortand	Trauerente	Μαυρόπατια	Common Scoter	Macreuse noire	Orchetto marino	Zwarte zeeëend	Pato-negro
34. Melanitta fusca	Negrón especulado	Fløjlsand	Samtente	Βελουδόπατια	Velvet Scoter	Macreuse brune	Orco marino	Grote zeeëend	Pato-fusco
35. Buchephala clangula	Porrón osculado	Hvinand	Schellente	Κονδουνόπατια	Goldeneye	Garrot à œil d'or	Quattrocchi	Brilduiker	Pato-olho-d'ouro
36. Mergus serrator	Serreta mediana	Toppet skallesluger	Mittelsäger	Λοφοπόλιτης	Red-breasted Merganser	Harle huppé	Smerno minore	Middelste zaagbek	Merganso-de-pequeno
37. Mergus merganser	Serreta grande	Stor skallesluger	Gänsesäger	Χηνοπόλιτης	Goosander	Harle bièvre	Smerno maggiore	Grote zaagbek	Merganso-grande
38. Bonasa bonasia	Grévol	Hjerpe	Haselhuhn	Αγρόκοτα	Hazelhen	Gélinotte des bois	Francolino di monte	Hazelhoen	Galinhado-mato
39. Tetrao tetrix	Gallo lira	Urfugl	Birkhuhn	Λυγοπετεινός	Black grouse	Tétras lyre	Fagiano di monte	Korhoen	Galo-lira
40. Tetrao urogallus	Urogallo	Tjur	Auerhuhn	Αγρόκοκοχος	Capercaillie	Grand Tétras	Gallo cedrone	Auerhoen	Tetraz
41. Alectoris barbara	Perdiz moruna	Berberhøne	Felsenhuhn	Βραχοπέδιδα	Barbary Partridge	Perdrix gabra	Pernice sarda	Barbarijse patrijs	Perdiz-moura
41a. Alectoris chukar	Perdiz turca	Chukarhøne	Chukarhuhn	Νηροπέδιδα	Chukar	Perdrix chukar	Coturnice orientale	Aziatische steenpatrijs	Perdiz-chukar
42. Coturnix coturnix	Codorniz	Vagel	Wachtel	Ορνίσι	Quail	Caille des blés	Quaglia	Kwartel	Codorniz
43. Meleagris gallopavo	Pavo silvestre	Vildkalkun	Wildtruthuhn	Γάλος (διάκος)	Wild turkey	Dindon sauvage	Tacchino selvatico	Wilde kalkoen	Perú
44. Rallus aquaticus	Rascón	Vandrikse	Wasserlälle	Νεροκοτσέλα	Water Rail	Râle d'eau	Porciglione	Waterral	Frango-d'água

	Español	Dansk	Deutsch	Ελληνικά	English	Français	Italiano	Nederlands	Português
45. <i>Gallinula chloropus</i>	Polla de agua	Grønbenet rørhøne	Teichhuhn	Νερόκορα (νεροπούλαδα)	Moorhen	Poule d'eau	Gallinella d'acqua	Waterhoen	Galinha-d'água
46. <i>Haematopus ostralegus</i>	Ostrero	Strandskade	Austernfischer	Στρεπτοπόρος	Oystercatcher	Huitrier pie	Beccaccia di mare	Scholekster	Ostraceiro
47. <i>Pluvialis apricaria</i>	Chorlito (o pluvial) dorado	Hjeje	Goldregenpfeifer	Βροχοπούλι	Golden Plover	Pluvier doré	Piviere dorato	Goudplevier	Tarambola-dourada
48. <i>Pluvialis squatarola</i>	Chorlito gris	Strandhjeje	Kiebitzregenpfeifer	Αργυροπούλι	Grey Plover	Pluvier argenté	Pivieressa	Zilverplevier	Tarambola-cinzenta
49. <i>Vanellus vanellus</i>	Avefría	Vibe	Kiebitz	Καλημάνα	Lapwing	Vanneau huppé	Pavoncella	Kievit	Abibe-comum
50. <i>Calidris canutus</i>	Correlimos gordo	Islandsk ryle	Knutt	Χοντροσαλάδα	Knot	Bécasseau maubèche	Piovanello maggiore	Kanoetstrandloper	Seixoeira
51. <i>Philomachus pugnax</i>	Combatiente	Brushane	Kampfläufer	Ψευτομάχητης	Ruff	Chevalier combattant	Combattente	Kemphaan	Combatente
52. <i>Limosa limosa</i>	Aguja colinegra	Stor kobbersneppe	Uferschnepfe	Οχθροτούλι	Black-tailed Godwit	Barge à queue noire	Pittima reale	Grutto	Maçarico-de-bico-direito
53. <i>Limosa lapponica</i>	Aguja colipinta	Lille kobbersneppe	Pfuhlschnepfe	Αιτοτούλι	Bar-tailed Godwit	Barge rousse	Pittima minore	Rosse grutto	Fuselo
54. <i>Numenius phaeopus</i>	Zarapito trinador	Lille regnspeve	Regenbrachvogel	Σηλιόπουρος	Whimbrel	Courlis corlieu	Chiurlo piccolo	Regenwulp	Maçarico-galego
55. <i>Numenius arquata</i>	Zarapito real	Stor regnspeve	Großer Brachvogel	Τουρλίδα	Curlew	Courlis cendré	Chiurlo maggiore	Wulp	Maçarico-real
56. <i>Tringa erythropus</i>	Archibebe oscuro	Sortklire	Dunkelwasserläufer	Μαυρόπτερος	Spotted Redshank	Chevalier arlequin	Totano moro	Zwarte ruiter	Perna-vemilha-escuro
57. <i>Tringa totanus</i>	Archibebe común	Rødben	Rotschenkel	Κοκκινοσκέλης	Redshank	Chevalier gambette	Pettegola	Tureluur	Perna-vemilha-comum
58. <i>Tringa nebularia</i>	Archibebe claro	Kvidklire	Grünschenkel	Πρασινόςκέλης	Greenshank	Chevalier aboyeur	Pantana	Groenpootruiter	Perna-verde-comum
59. <i>Larus ridibundus</i>	Gaviota reidora	Hættemåge	Lachmöwe	Καστανόκεφαλόγαρος	Black-headed Gull	Mouette rieuse	Gabbiano comune	Kokmeeuw	Guincho-comum
59a. <i>Larus cachinnans</i>	Gaviota patiamarilla	Middelhavsmåge	Weißkopfmöwe	Μεσογειακός Ασημόγαρος	Yellow-legged Gull	Goéland leucophee	Gabbiano reale a zampe gialle	Geelpootmeeuw	Gaivota-argêntea-de-pernas-amarelas
60. <i>Larus canus</i>	Gaviota cana	Stormmåge	Sturmmöwe	Θυελλόγαρος	Common Gull	Goéland cendré	Gavina	Stormmeeuw	Alcatraz-pardo
61. <i>Larus fuscus</i>	Gaviota sombría	Sildemåge	Heringsmöwe	Μελανόγαρος	Lesser black-backed Gull	Goéland brun	Gabbiano zafferano	Kleine mantelmeeuw	Gaivota-d'asa-escura
62. <i>Larus argentatus</i>	Gaviota argêntea	Sølvmåge	Silbermöwe	Ασημόγαρος	Herring Gull	Goéland argenté	Gabbiano reale	Zilvermeeuw	Gaivota-argêntea
63. <i>Larus marinus</i>	Gavión	Svartbag	Mantelmöwe	Γρανιόγαρος	Greater black-backed Gull	Goéland marin	Mugnaiaccio	Grote mantelmeeuw	Alcatraz-comum
64. <i>Columba oenas</i>	Paloma zurita	Huldue	Hohltaube	Φασοσπερίστερο	Stock Dove	Pigeon colombin	Colombella	Holenduif	Pombo-bravo
65. <i>Streptopelia decaocto</i>	Tórtola turca	Tyrkerdue	Türkentaube	Δεκαογτώγα	Collared Dove	Tourterelle turque	Tortora dal col-lare orientale	Turkse tortel	Rola-turca
66. <i>Streptopelia turtur</i>	Tórtola común	Turteldue	Turteltaube	Τρυγώνα	Turtle Dove	Tourterelle des bois	Tortora	Tortelduif	Rola-comum

	Español	Dansk	Deutsch	Ελληνικά	English	Français	Italiano	Nederlands	Português
67. <i>Alauda arvensis</i>	Alondra común	Sanglærke	Feldlerche	Στραγγίθρα	Skylark	Alouette des champs	Allodola	Veldleuwerik	Laverca
68. <i>Turdus merula</i>	Mirlo común	Solsort	Amsel	Κόρουρας	Blackbird	Merle noir	Merlo	Merel	Meiro-preto
69. <i>Turdus pilaris</i>	Zorzal real	Siagger	Wacholderdrossel	Κεδρόστοιχλα	Fieldfare	Grive litorne	Cesena	Kramsvogel	Tordo-zomal
70. <i>Turdus philomelos</i>	Zorzal común	Sangdrossel	Singdrossel	Τοιχλα	Song Thrush	Grive muscienne	Tordo bottaccio	Zanglijster	Tordo-comum
71. <i>Turdus iliacus</i>	Zorzal malvis o Alirrojo	Vindrossel	Rotdrossel	Κοκκινόστοιχλα	Redwing	Grive mauvis	Tordo sassello	Koperwiek	Tordo-ruivo-comum
72. <i>Turdus viscivorus</i>	Zorzal charlo	Misteldrossel	Misteldrossel	Γελαστόριχλα	Mistle Thrush	Grive draine	Tordela	Grote lijster	Tordela
72b. <i>Sturnus vulgaris</i>	Estornino pinto	Stær	Star	Ψαρόνι	Starling	Étourneau sansonnet	Storno	Spreeuw	Estorninho-malhado
73. <i>Garrulus glandarius</i>	Arrendajo común	Skovskade	Eichelhäher	Κίσσα	Jay	Geai des chênes	Ghiandaia	Vlaamse gaai	Gaio-comum
74. <i>Pica pica</i>	Urraca	Husskade	Elster	Καρακάξα	Magpie	Pie bavarde	Gazza	Ekster	Pega-rabuda
75. <i>Corvus monedula</i>	Grajilla	Allike	Dohle	Κάγηνα	Jackdaw	Choucas des tours	Taccola	Kauw	Gralha-de-nuca-cinzenta
76. <i>Corvus frugilegus</i>	Graja	Råge	Saatkrähe	Χαδαρόνια	Rock	Corbeau freux	Corvo comune	Rock	Gralha-calva
77. <i>Corvus corone</i>	Corneja	Krage	Aaskrähe	Κουκούνα	Carion crow	Cornille noire	Cornacchia	Kraai	Gralha-preta

	Belgique/ Belgie	Danmark	Deutschland	Ελλάδα	España	France	Ireland	Italia	Luxembourg	Nederland	Portugal	United Kingdom
25. <i>Cygnus olor</i>			+									
26. <i>Anser brachyrhynchus</i>	+	+					+					+
27. <i>Anser albifrons</i>	+	+	+	+		+	+			+		+
28. <i>Branta bernicla</i>		+	+									
29. <i>Netta rufina</i>					+	+						
30. <i>Aythya marila</i>	+	+	+	+		+	+			+		+
31. <i>Somateria mollissima</i>		+				+	+					
32. <i>Clangula hyemalis</i>		+				+	+					+
33. <i>Melanitta nigra</i>		+	+			+	+					+
34. <i>Melanitta fusca</i>		+	+			+	+					+
35. <i>Bucephala clangula</i>		+		+		+	+					+
36. <i>Mergus serrator</i>		+					+					
37. <i>Mergus merganser</i>		+					+					
38. <i>Bonasa bonasia</i> (<i>Tetrastes bonasia</i>)						+						
39. <i>Tetrao tetrix</i> (<i>Lyrurus tetrix</i>)	+		+♂			+♂		+				+
40. <i>Tetrao urogallus</i>			+♂			+♂		+				+
41. <i>Alectoris barbara</i>					+			+				
41a. <i>Alectoris chukar</i>				+								
42. <i>Coturnix coturnix</i>				+	+	+		+			+	
43. <i>Meleagris gallopavo</i>			+									
44. <i>Rallus aquaticus</i>						+		+				
45. <i>Gallinula chloropus</i>	+			+		+		+			+	+
46. <i>Haematopus ostralegus</i>		+				+						
47. <i>Pluvialis apricaria</i>	+	+		+		+	+			+	+	+
48. <i>Pluvialis squatarola</i>		+				+						+
49. <i>Vanellus vanellus</i>	+	+		+	+	+	+	+				
50. <i>Calidris canutus</i>		+				+						
51. <i>Philomachus pugnax</i>						+		+				
52. <i>Limosa limosa</i>		+				+						
53. <i>Limosa lapponica</i>		+				+						+
54. <i>Numenius phaeopus</i>		+				+						+
55. <i>Numenius arquata</i>		+				+	+					+
56. <i>Tringa erythropus</i>		+				+						
57. <i>Tringa totanus</i>		+				+		+				+
58. <i>Tringa nebularia</i>		+				+						
59. <i>Larus ridibundus</i>	+	+	+		+							
59a. <i>Larus cachinnans</i>					+							
60. <i>Larus canus</i>		+	+									
61. <i>Larus fuscus</i>		+	+									
62. <i>Larus argentatus</i>	+	+	+		+							
63. <i>Larus marinus</i>		+	+									
64. <i>Columba oenas</i>				+	+	+					+	
65. <i>Streptopelia decaocto</i>		+	+			+						
66. <i>Streptopelia turtur</i>				+	+	+		+			+	
67. <i>Alauda arvensis</i>				+		+		+				
68. <i>Turdus merula</i>				+		+		+			+	
69. <i>Turdus pilaris</i>				+	+	+		+			+	

	Belgique/ Belgie	Danmark	Deutschland	Ελλάδα	España	France	Ireland	Italia	Luxembourg	Nederland	Portugal	United Kingdom
70. <i>Turdus philomelos</i>				+	+	+		+			+	
71. <i>Turdus iliacus</i>				+	+	+		+			+	
72. <i>Turdus viscivorus</i>				+	+	+					+	
72b. <i>Sturnus vulgaris</i>				+	+	+					+	
73. <i>Garrulus glandarius</i>	+	+	+			+		+	+	+	+	+
74. <i>Pica pica</i>	+	+	+	+	+	+		+	+	+	+	+
75. <i>Corvus monedula</i>				+	+					+		+
76. <i>Corvus frugilegus</i>						+						+
77. <i>Corvus corone</i>	+	+	+	+	+	+		+	+	+	+	+

+ = Estados miembros que pueden autorizar, conforme al apartado 3 del artículo 7, la caza de las especies enumeradas.

+ = Medlemsstater, som i overensstemmelse med artikel 7, stk. 3, kan give tilladelse til jagt på de anførte arter.

+ = Mitgliedstaaten, die nach Artikel 7 Absatz 3 die Bejagung der aufgeführten Arten zulassen können.

+ = Κράτη μέλη που δύνανται να επιτρέπουν, σύμφωνα με το άρθρο 7 παράγραφος 3, το κυνήγι των ειδών που απαριθμούνται.

+ = Member States which under Article 7 (3) may authorize hunting of the species listed.

+ = États membres pouvant autoriser, conformément à l'article 7 paragraphe 3, la chasse des espèces énumérées.

+ = Stati membri che possono autorizzare, conformemente all'articolo 7, paragrafo 3, la caccia delle specie elencate.

+ = Lid-Staten die overeenkomstig artikel 7, lid 3, toestemming mogen geven tot het jagen op de genoemde soorten.

+ = Estados-membros que podem autorizar, nos termos do n.º 3 do artigo 7.º, a caça das espécies enumeradas.

DIRECTIVE 94/25/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 June 1994

on the approximation of the laws, regulations and administrative provisions of the Member States relating to recreational craft

THE EUROPEAN PARLIAMENT AND
THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189b of the Treaty ⁽³⁾,

Whereas the internal market is to comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

Whereas the laws, regulations and administrative provisions in force in the various Member States relating to the safety characteristics of recreational craft differ in scope and content; whereas such disparities are liable to create barriers to trade and unequal conditions of competition within the internal market;

Whereas harmonization of national legislation is the only way in which to remove these barriers to free trade; whereas this objective cannot be satisfactorily achieved by the individual Member States; whereas this Directive merely lays down the requirements vital to freedom of movement for recreational craft;

Whereas this Directive should cover only recreational craft of a minimum length of 2,5 m and a maximum length of 24 m, derived from the ISO standards;

Whereas the removal of technical barriers in the field of recreational craft and their components, to the extent

that they cannot be removed by mutual recognition of equivalence among all the Member States, should follow the new approach set out in the Council resolution of 7 May 1985 ⁽⁴⁾ which calls for the definition of essential requirements on safety and other aspects which are important for the general well-being; whereas paragraph 3 of Article 100a provides that, in its proposals, concerning health, safety, environmental protection and consumer protection, the Commission will take as a base a high level of protection; whereas the essential requirements constitute the criteria with which recreational craft, partly completed craft and their components when separate and when installed must comply;

Whereas, therefore, this Directive sets out essential requirements only; whereas, in order to facilitate the task of proving compliance with the essential requirements, harmonized European standards are necessary for recreational craft and their components as referred to in Annex II; whereas harmonized European standards are drawn up by private bodies and must retain their non-mandatory status; whereas, for this purpose, the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (Cenelec) are recognized as the bodies competent to adopt harmonized standards which follow the general guidelines for cooperation between the Commission and those two bodies, signed on 13 November 1984; whereas, for the purposes of this Directive, a harmonized standard is a technical specification (European Standard or harmonization document) adopted by one or other of those bodies, or by both, at the prompting of the Commission pursuant to Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations ⁽⁵⁾ and pursuant to the general guidelines referred to above;

Whereas, in view of the nature of the risks involved in the use of recreational craft and their components, it is necessary to establish procedures applying to the assessment of compliance with the essential requirements of the Directive; whereas these procedures must be devised in the light of the level of risk which may be inherent in recreational craft and their components; whereas, therefore, each category of conformity must be supplemented by an appropriate procedure or a choice between several equivalent procedures; whereas the

⁽¹⁾ OJ No C 123, 15. 5. 1992, p. 7.

⁽²⁾ OJ No C 313, 30. 11. 1992, p. 38.

⁽³⁾ Opinion of the European Parliament of 16 November 1992 (OJ No C 337, 21. 12. 1992, p. 17); Council common position of 16 December 1993 (OJ No C 137, 19. 5. 1994, p. 1); Decision of the European Parliament of 9 March 1994 (OJ No C 91, 28. 3. 1994).

⁽⁴⁾ OJ No C 136, 4. 6. 1985, p. 1.

⁽⁵⁾ OJ No L 109, 26. 4. 1983, p. 8. Directive as last amended by Directive 88/182/EEC (OJ No L 81, 26. 3. 1988, p. 75).

procedures adopted comply with Council Decision 93/465/EEC of 22 July 1993 concerning the modules for the various phases of the conformity assessment procedures and the rules for the affixing and use of the CE conformity marking which are intended to be used in the technical harmonization Directives ⁽¹⁾;

Whereas the Council has provided for the affixing of the CE marking by either the manufacturer or his authorized representative within the Community; whereas that mark means that the recreational craft and components comply with all the essential requirements and assessment procedures provided for by the Community law applying to the product;

Whereas it is appropriate that the Member States, as provided for by Article 100a (5) of the Treaty, may take provisional measures to limit or prohibit the placing on the market and the use of recreational craft or constituent products thereof in cases where they present a particular risk to the safety of persons and, where appropriate, domestic animals or property, provided that the measures are subject to a Community control procedure;

Whereas the recipients of any decision taken as part of this Directive must be aware of the reasons behind that decision and the means of appeal open to them;

Whereas it is necessary to provide for a transitional arrangement enabling recreational craft and their components manufactured in compliance with the national regulations in force at the date of adoption of this Directive to be marketed and placed in service;

Whereas this Directive does not contain any provisions directed towards limiting the use of the recreational craft after it has been put into service;

Whereas the construction of recreational craft may have an impact on the environment to the extent that the craft may discharge polluting substances; whereas it is therefore necessary to include provisions on the protection of the environment in the Directive, in so far as those provisions concern the construction of recreational craft from the point of view of its direct impact on the environment;

Whereas the provisions of this Directive should not affect Member States' entitlement to lay down, in accordance with the Treaty, such requirements as they may deem necessary concerning navigation on certain waters for the purpose of protection of the environment, the fabric of waterways and ensuring safety on waterways, provided that this does not mean that the recreational craft is modified in a way not specified in this Directive,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

Article 1

1. This Directive shall apply to recreational craft, partly completed boats and components referred to in Annex II when separate and when installed.
2. 'Recreational craft' shall mean any boat of any type, regardless of the means of propulsion, from 2,5 to 24 m hull length, measured according to the appropriate harmonized standards intended for sports and leisure purposes. The fact that the same boat could be used for charter or for recreational boating training shall not prevent it being covered by this Directive when it is placed on the market for recreational purposes.
3. The following shall be excluded from the scope of this Directive:
 - (a) craft intended solely for racing, including rowing racing boats and training rowing boats labelled as such by the manufacturer;
 - (b) canoes and kayaks, gondolas and pedalos;
 - (c) sailing surfboards;
 - (d) powered surfboards, personal watercraft and other similar powered craft;
 - (e) original, and individual replicas of, historical craft designed before 1950, built predominantly with the original materials and labelled as such by the manufacturer;
 - (f) experimental craft, provided that they are not subsequently placed on the Community market;
 - (g) craft built for own use, provided that they are not subsequently placed on the Community market during a period of five years;
 - (h) craft specifically intended to be crewed and to carry passengers for commercial purposes, without prejudice to paragraph 2, in particular those defined in Directive 82/716/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels ⁽²⁾, regardless of the number of passengers;

⁽¹⁾ OJ No L 220, 30. 8. 1993, p. 23.

⁽²⁾ OJ No L 301, 28. 10. 1982, p. 1.

- (i) submersibles;
- (j) air cushion vehicles;
- (k) hydrofoils.

Article 2

Placing on the market and putting into service

1. Member States shall take all necessary measures to ensure that the products referred to in Article 1 (1) may be placed on the market and put into service for use in accordance with their intended purpose only if they do not endanger the safety and health of persons, property or the environment when correctly constructed and maintained.

2. The provisions of this Directive shall not prevent Member States from adopting, in compliance with the Treaty, provisions concerning navigation on certain waters for the purpose of protection of the environment, the fabric of waterways, and ensuring safety of waterways, providing that this does not require modification to craft conforming to this Directive.

Article 3

Essential requirements

The products referred to in Article 1 (1) shall meet the essential safety, health, environmental protection and consumer protection requirements set out in Annex I.

Article 4

Free movement of the products referred to in Article 1 (1)

1. Member States shall not prohibit, restrict or impede the placing on the market and putting into service in their territory of the products referred to in Article 1 (1) bearing the CE marking referred to in Annex IV, which indicates their conformity with all provisions of this Directive, including the conformity procedures set out in Chapter II.

2. Member States shall not prohibit, restrict or impede the placing on the market of partly-completed boats where the builder or his authorized representative established in the Community or the person responsible for the placing on the market declares, in accordance with Annex IIIA, that they are intended to be completed by others.

3. Member States shall not prohibit, restrict or impede the placing on the market and putting into service of components referred to in Annex II and bearing the CE marking referred to in Annex IV which indicates their

conformity with the relevant essential requirements where these components are intended to be incorporated into recreational craft, in accordance with the declaration, referred to in Annex IIIB, of the manufacturer, his authorized representative established in the Community or, in the case of imports from a third country, of any person who places those components on the Community market.

4. At trade fairs, exhibitions, demonstrations, etc., Member States shall not create any obstacles to the showing of the products referred to in Article 1 (1) which do not comply with this Directive, provided that a visible sign clearly indicates that such products may not be marketed or put into service until they have been made to comply.

5. Where the products referred to in Article 1 (1) are subject to other Directives concerning other aspects and which also provide for the affixing of the CE marking, the latter shall indicate that such products also fulfil the provisions of those other Directives. However, should one or more of those Directives allow the manufacturer, during a transitional period, to choose which arrangements to apply, the CE marking shall indicate that the product fulfils the provisions only of those Directives applied by the manufacturer. In this case, the particulars of those Directives, as published in the *Official Journal of the European Communities*, must be given in the documents, notices or instructions required by those Directives and accompanying such products.

Article 5

Member States shall presume compliance with the essential requirements referred to in Article 3 of products referred to in Article 1 (1) which meet the relevant national standards adopted pursuant to the harmonized standards the references of which have been published in the *Official Journal of the European Communities*; Member States shall publish the references of such national standards.

Article 6

1. Where a Member State or the Commission is of the opinion that the harmonized standards referred to in Article 5 do not fully meet the essential requirements referred to in Article 3, the Commission or the Member State shall notify the committee set up under Directive 83/189/CEE, setting out its reasons. The committee shall deliver an urgent opinion.

In the light of the opinion of the committee, the Commission shall inform Member States if the standards concerned should be withdrawn from the publications referred to in Article 5.

2. The Commission may adopt any appropriate measure with a view to ensuring that this Directive is applied practically in a uniform manner in pursuance of paragraph 3.

3. The Commission shall be assisted by a Standing Committee composed of representatives appointed by the Member States and chaired by a representative from the Commission.

The Standing Committee shall draw up its own rules of procedure.

The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

4. The Standing Committee may, in addition, examine any question concerning the application of this Directive and raised by its chairman, either at the chairman's initiative or at the request of a Member State.

(c) shortcomings in the standards referred to in Article 5 themselves.

2. The Commission shall enter into consultation with the parties concerned as soon as possible. Where, after such consultation, the Commission finds that:

— the measures are justified, it shall immediately so inform the Member State which took the initiative and the other Member States; where the decision referred to in paragraph 1 is attributed to shortcomings in the standards, the Commission shall, after consulting the parties concerned, bring the matter before the Committee referred to in Article 6 (1) within two months, if the Member State which has taken the decision intends to maintain it, and shall initiate the procedure referred to in Article 6 (1),

— the measures are unjustified, it shall immediately so inform the Member State which took the initiative and the manufacturer or his authorized representative established in the Community.

3. Where a non-complying component referred to in Annex II or craft bears the CE marking, the appropriate measures shall be taken by the Member State which has authority over whomsoever affixed the marking; that Member State shall inform the Commission and the other Member States thereof.

4. The Commission shall ensure that the Member States are kept informed of the progress and outcome of this procedure.

Article 7

Safeguard clause

1. Where a Member State ascertains that recreational craft or components referred to in Annex II and bearing the CE marking referred to in Annex IV when correctly constructed, installed, maintained and used in accordance with their intended purpose may endanger the safety and health of persons, property or the environment, it shall take all appropriate interim measures to withdraw them from the market or prohibit or restrict their being placed on the market or put into service.

The Member State shall immediately inform the Commission of any such measure, indicating the reasons for its decision, in particular where non-conformity is the result of:

- (a) failure to comply with the essential requirements referred to in Article 3;
- (b) incorrect application of the standards referred to in Article 5, in so far as it is claimed that those standards have been applied;

CHAPTER II

Conformity assessment

Article 8

Before producing and placing on the market products referred to in Article 1 (1), the manufacturer or his authorized representative established in the Community shall apply the following procedures for boat design categories A, B, C and D as referred to in Section 1 of Annex I.

1. For categories A and B:

- for boats of less than 12 m hull length: the internal production control plus tests (module Aa) referred to in Annex VI,
- for boats from 12 m to 24 m hull length: the EC type-examination (module B) referred to in Annex VII supplemented by module C (type conformity) referred to in Annex VIII, or any of the following modules: B + D, or B + F, or G or H.

2. For category C:

- (a) for boats from 2,5 m to 12 m hull length:
 - where the harmonized standards relating to sections 3.2 and 3.3 of Annex I are complied with: the internal production control (module A), referred to in Annex V,
 - where the harmonized standards relating Sections 3.2 and 3.3 of Annex I are not complied with: the internal production control plus tests (module Aa) referred to in Annex VI.
- (b) for boats from 12 m to 24 m hull length: the EC type-examination (module B) referred to in Annex VII followed by module C (type conformity) referred to in Annex VIII, or any of the following modules: B + D, or B + F, or G or H.

3. For category D:

For boats from 2,5 m to 24 m hull length: the internal production control (module A) referred to in Annex V.

- 4. For components referred to in Annex II: any of the following modules: B + C, or B + D, or B + F, or G or H.

*Article 9***Notified bodies**

1. Member States shall notify the Commission and other Member States of the bodies which they have appointed to carry out the tasks pertaining to the conformity assessment procedures referred to in Article 8, together with the specific tasks which these bodies have been appointed to carry out and the identification numbers assigned to them beforehand by the Commission.

The Commission shall publish a list of the notified bodies, together with the identification numbers it has allocated to them and the tasks for which they have been notified, in the *Official Journal of the European Communities*. It shall ensure that the list is kept up to date.

2. Member States shall apply the criteria laid down in Annex XIV in assessing the bodies to be indicated in such notification. Bodies meeting the assessment criteria laid down in the relevant harmonized standards shall be presumed to fulfil those criteria.

3. A Member State shall withdraw its approval from such a body if it is established that the latter no longer satisfies the criteria referred to in Annex XIV. It shall inform the Commission and the other Member States of its action forthwith.

CHAPTER III

CE Marking*Article 10*

1. Recreational craft and components as referred to in Annex II which are regarded as meeting the essential requirements referred to in Article 3 must bear the CE marking of conformity when they are placed on the market.

2. The CE marking of conformity, as shown in Annex IV, must appear in a visible, legible and indelible form on the recreational craft as in point 2.2 of Annex I and on components as referred to in Annex II and/or on their packaging.

The CE marking shall be accompanied by the identification number of the notified body responsible for implementation of the procedures set out in Annexes VI, IX, X, XI and XII.

3. The affixing of markings or inscriptions on the craft which are likely to mislead third parties with regard to the meaning or the form of the CE marking shall be prohibited. Any other markings may be affixed to the recreational craft and components as referred to in Annex II and/or on their packaging, provided that the visibility and legibility of the CE marking is not thereby reduced.

4. Without prejudice to Article 7:

- (a) where a Member State establishes that the CE marking has been affixed wrongly, the manufacturer or his authorized representative established in the Community shall be obliged to end the infringement under conditions laid down by the Member State;
- (b) where non-compliance continues, the Member State shall take all appropriate measures to restrict or prohibit the placing on the market of the product in question or to ensure that it is withdrawn from the market, in accordance with the procedure laid down in Article 7.

CHAPTER IV

Final provisions*Article 11*

Detailed grounds shall be given for any decision taken pursuant to this Directive leading to a restriction on the marketing and putting into service of products referred to in Article 1 (1). The party concerned shall be informed of the decision as soon as possible together with the means of redress available under the laws in force in the Member State concerned and the periods within which appeals must be lodged.

Article 12

The Commission shall take the necessary measures to ensure that data affecting all pertinent decisions concerning the management of this Directive are made available.

Article 13

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive not later than 16 December 1995. They shall immediately inform the Commission thereof.

Member States shall apply these provisions from 16 June 1996.

The Standing Committee referred to in Article 6 (3) may assume its tasks from the date of the entry into force of this Directive. Member States may take the measures referred to in Article 9 of such date.

When Member States adopt the provisions referred to in the first subparagraph, these shall contain a reference to this Directive or shall be accompanied by such a reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall communicate to the Commission the text of the provisions of national law

which they adopt in the field governed by this Directive.

3. Member States shall accept the placing on the market and putting into service of products referred to in Article 1 (1) which comply with the rules in force in their territory on the date of adoption of this Directive during a period of four years from that date.

Article 14

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 15

This Directive is addressed to the Member States.

Done at Brussels, 16 June 1994.

*For the
European Parliament
The President
E. KLEPSCH*

*For the Council
The President
Y. PAPANTONIOU*

ANNEX I

ESSENTIAL SAFETY REQUIREMENTS FOR THE DESIGN AND CONSTRUCTION OF
RECREATIONAL CRAFT

1. BOAT DESIGN CATEGORIES

Design category	Wind force (Beaufort scale)	Significant wave height (H $\frac{1}{3}$, metres)
A — 'Ocean'	exceeding 8	exceeding 4
B — 'Offshore'	up to, and including, 8	up to, and including, 4
C — 'Inshore'	up to, and including, 6	up to, and including, 2
D — 'Sheltered waters'	up to, and including, 4	up to, and including, 0,5

Definitions:

- A. OCEAN: Designed for extended voyages where conditions may exceed wind force 8 (Beaufort scale) and significant wave heights of 4 m and above, and vessels largely self-sufficient.
- B. OFFSHORE: Designed for offshore voyages where conditions up to, and including, wind force 8 and significant wave heights up to, and including, 4 m may be experienced.
- C. INSHORE: Designed for voyages in coastal waters, large bays, estuaries, lakes and rivers where conditions up to, and including, wind force 6 and significant wave heights up to, and including, 2 m may be experienced.
- D. SHELTERED WATERS: Designed for voyages on small lakes, rivers, and canals where conditions up to, and including, wind force 4 and significant wave heights up to, and including, 0,5 m may be experienced.

Boats in each Category must be designed and constructed to withstand these parameters in respect of stability, buoyancy, and other relevant essential requirements listed in Annex I, and to have good handling characteristics.

2. GENERAL REQUIREMENTS

Recreational craft and components as referred to in Annex II shall comply with the essential requirements in so far as they apply to them.

2.1. Hull identification

Each craft shall be marked with a hull identification number including the following information:

- manufacturer's code,
- country of manufacture,
- unique serial number,
- year of production,
- model year.

The relevant harmonized standard gives details of these requirements.

2.2. Builder's plate

Each craft shall carry a permanently affixed plate mounted separately from the boat hull identification number, containing the following information:

- manufacturer's name,
- CE marking (see Annex IV),
- boat design category according to section 1,
- manufacturer's maximum recommended load according to section 3.6,
- number of persons recommended by the manufacturer for which the boat was designed to carry when under way.

2.3. Protection from falling overboard and means of reboarding

Depending on the design category, craft shall be designed to minimize the risks of falling overboard and to facilitate reboarding.

2.4. Visibility from the main steering position

For motor boats, the main steering position shall give the operator, under normal conditions of use (speed and load), good all-round visibility.

2.5. Owner's manual

Each craft shall be provided with an owner's manual in the official Community language or languages which may be determined by the Member State in which it is marketed in accordance with the Treaty. This manual should draw particular attention to risks of fire and flooding and shall contain the information listed in sections 2.2, 3.6 and 4 as well as the unladen weight of the craft in kilograms.

3. INTEGRITY AND STRUCTURAL REQUIREMENTS**3.1. Structure**

The choice and combination of materials and its construction shall ensure that the craft is strong enough in all respects. Special attention shall be paid to the design category according to section 1, and the manufacturer's maximum recommended load in accordance with section 3.6.

3.2. Stability and freeboard

The craft shall have sufficient stability and freeboard considering its design category according to section 1 and the manufacturer's maximum recommended load according to section 3.6.

3.3. Buoyancy and flotation

The craft shall be constructed to ensure that it has buoyancy characteristics appropriate to its design category according to section 1.1, and the manufacturer's maximum recommended load according to section 3.6. All habitable multihull craft shall be so designed as to have sufficient buoyancy to remain afloat in the inverted position.

Boats of less than six metres in length that are susceptible to swamping when used in their design category shall be provided with appropriate means of flotation in the swamped condition.

3.4. Openings in hull, deck and superstructure

Openings in hull, deck(s) and superstructure shall not impair the structural integrity of the craft or its weathertight integrity when closed.

Windows, portlights, doors and hatchcovers shall withstand the water pressure likely to be encountered in their specific position, as well as pointloads applied by the weight of persons moving on deck.

Through hull fittings designed to allow water passage into the hull or out of the hull, below the waterline corresponding to the manufacturer's maximum recommended load according to section 3.6, shall be fitted with shutoff means which shall be readily accessible.

3.5. Flooding

All craft shall be designed so as to minimize the risk of sinking.

Particular attention should be paid where appropriate to:

- cockpits and wells, which should be self-draining or have other means of keeping water out of the boat interior,
- ventilation fittings,
- removal of water by pumps or other means.

3.6. Manufacturer's maximum recommended load

The manufacturer's maximum recommended load (fuel, water, provisions, miscellaneous equipment and people (in kilograms)) for which the boat was designed, as marked on the builder's plate, shall be determined according to the design category (section 1), stability and freeboard (section 3.2) and buoyancy and flotation (section 3.3).

3.7. Liferaft stowage

All craft of categories A and B, and craft of categories C and D longer than six metres shall be provided with one or more stowage points for a liferaft (liferrafts) large enough to hold the number of persons the boat was designed to carry as recommended by the manufacturer. This (these) stowage point(s) shall be readily accessible at all times.

3.8. Escape

All habitable multihull craft over 12 metres long shall be provided with viable means of escape in the event of inversion.

All habitable craft shall be provided with viable means of escape in the event of fire.

3.9. Anchoring, mooring and towing

All craft, taking into account their design category and their characteristics shall be fitted with one or more strong points or other means capable of safely accepting anchoring, mooring and towing loads.

4. HANDLING CHARACTERISTICS

The manufacturer shall ensure that the handling characteristics of the craft are satisfactory with the most powerful engine for which the boat is designed and constructed. For all recreational marine engines, the maximum rated engine power shall be declared in the owner's manual in accordance with the harmonized standard.

5. INSTALLATION REQUIREMENTS

5.1. Engines and engine spaces

5.1.1. Inboard engine

All inboard mounted engines shall be placed within an enclosure separated from living quarters and installed so as to minimize the risk of fires or spread of fires as well as hazards from toxic fumes, heat, noise or vibrations in the living quarters.

Engine parts and accessories that require frequent inspection and/or servicing shall be readily accessible.

The insulating materials inside engine spaces shall be non-combustible.

5.1.2. Ventilation

The engine compartment shall be ventilated. The dangerous ingress of water into the engine compartment through all inlets must be prevented.

5.1.3. Exposed parts

Unless the engine is protected by a cover or its own enclosure, exposed moving or hot parts of the engine that could cause personal injury shall be effectively shielded.

5.1.4. Outboard engines starting

All boats with outboard engines shall have a device to prevent starting the engine in gear, except:

- (a) when the engine produces less than 500 newtons (N) of static thrust;
- (b) when the engine has a throttle limiting device to limit thrust to 500 N at the time of starting the engine.

5.2. Fuel system

5.2.1. General

The filling, storage, venting and fuel-supply arrangements and installations shall be designed and installed so as to minimize the risk of fire and explosion.

5.2.2. *Fuel tanks*

Fuel tanks, lines and hoses shall be secured and separated or protected from any source of significant heat. The material the tanks are made of and their method of construction shall be according to their capacity and the type of fuel. All tank spaces shall be ventilated.

Liquid fuel with a flash point below 55 °C shall be kept in tanks which do not form part of the hull and are:

- (a) insulated from the engine compartment and from all other source of ignition;
- (b) separated from living quarters.

Liquid fuel with a flash point equal to or above 55 °C may be kept in tanks that are integral with the hull.

5.3. *Electrical system*

Electrical systems shall be designed and installed so as to ensure proper operation of the craft under normal conditions of use and shall be such as to minimize risk of fire and electric shock.

Attention shall be paid to the provision of overload and short-circuit protection of all circuits, except engine starting circuits, supplied from batteries.

Ventilation shall be provided to prevent the accumulation of gases which might be emitted from batteries. Batteries shall be firmly secured and protected from ingress of water.

5.4. *Steering system*

5.4.1. *General*

Steering systems shall be designed, constructed and installed in order to allow the transmission of steering loads under foreseeable operating conditions.

5.4.2. *Emergency arrangements*

Sailboat and single-engined inboard powered motor boats with remote-controlled rudder steering systems shall be provided with emergency means of steering the craft at reduced speed.

5.5. *Gas system*

Gas systems for domestic use shall be of the vapour-withdrawal type and shall be designed and installed so as to avoid leaks and the risk of explosion and be capable of being tested for leaks. Materials and components shall be suitable for the specific gas used to withstand the stresses and exposures found in the marine environment.

Each appliance shall be equipped with a flame failure device effective on all burners. Each gas-consuming appliance must be supplied by a separate branch of the distribution system, and each appliance must be controlled by a separate closing device. Adequate ventilation must be provided to prevent hazards from leaks and products of combustion.

All craft with a permanently installed gas system shall be fitted with an enclosure to contain all gas cylinders. The enclosure shall be separated from the living quarters, accessible only from the outside and ventilated to the outside so that any escaping gas drains overboard. Any permanent gas system shall be tested after installation.

5.6. *Fire protection*

5.6.1. *General*

The type of equipment installed and the layout of the craft shall take account of the risk and spread of fire. Special attention shall be paid to the surroundings of open flame devices, hot areas or engines and auxiliary machines, oil and fuel overflows, uncovered oil and fuel pipes and avoiding electrical wiring above hot-areas of machines.

5.6.2. *Fire-fighting equipment*

Craft shall be supplied with fire-fighting equipment appropriate to the fire hazard. Petrol engine enclosures shall be protected by a fire extinguishing system that avoids the need to open the enclosure in the event of fire. Where fitted, portable fire extinguishers shall be readily accessible and one shall be so positioned that it can easily be reached from the main steering position of the craft.

5.7. Navigation lights

Where navigation lights are fitted, they shall comply with the 1972 Colreg or CEVNI regulations, as appropriate.

5.8. Discharge prevention

Craft shall be constructed so as to prevent the accidental discharge of pollutants (oil, fuel, etc.) overboard.

Craft fitted with toilets shall have either:

- (a) holding tanks; or
- (b) provision to fit holding tanks on a temporary basis in areas of use where the discharge of human waste is restricted.

In addition, any through-the-hull pipes for human waste shall be fitted with valves which are capable of being sealed shut.

ANNEX II**COMPONENTS**

1. Ignition-protected equipment for inboard and stern drive engines.
 2. Start-in-gear protection devices for outboard engines.
 3. Steering wheels, steering mechanisms and cable assemblies.
 4. Fuel tanks and fuel hoses.
 5. Prefabricated hatches and portlights.
-

ANNEX III

DECLARATION BY THE BUILDER OR HIS AUTHORIZED REPRESENTATIVE ESTABLISHED IN THE COMMUNITY OR THE PERSON RESPONSIBLE FOR PLACING ON THE MARKET

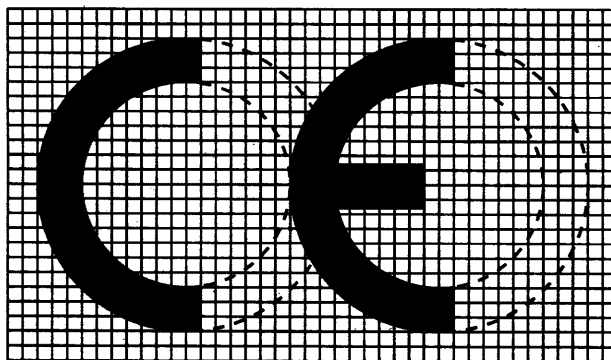
(Article 4 (2) and (3))

- (a) The declaration by the builder or his authorized representative established in the Community referred to in Article 4 (2) (partly completed craft) shall contain the following:
- the name and address of the builder,
 - the name and address of the representative of the builder established in the Community or, if appropriate, of the person responsible for the placing on the market,
 - a description of the partly completed craft,
 - a statement that the partly completed craft is intended to be completed by others and that it complies with the essential requirements that apply at this stage of construction.
- (b) The declaration by the builder, his authorized representative established in the Community or the person responsible for placing on the market referred to in Article 4 (3) (components) shall contain the following:
- the name and address of the builder,
 - the name and address of the representative of the builder established in the Community or, if appropriate, of the person responsible for the placing on the market,
 - a description of the component,
 - a statement that the component complies with the relevant essential requirements.

ANNEX IV

CE MARKING

The CE conformity marking must consist of the initials 'CE' taking the following form:



If the marking is reduced or enlarged, the proportions given in the above graduated drawing must be respected.

The various elements of the CE marking must have about the same vertical dimension, which shall not be less than 5 mm.

The CE marking is followed by the identification number of the notified body, if it intervenes in the control of production, as well as by the last two figures of the year that the CE marking is affixed.

ANNEX V

INTERNAL PRODUCTION CONTROL

(module A)

1. The manufacturer or his authorized representative established within the Community, who carries out the obligations laid down in point 2, ensures and declares that the products concerned satisfy the requirements of the Directive that apply to them. The manufacturer or his authorized representative established within the Community shall affix the CE marking to each product and draw up a written declaration of conformity (see Annex XV).
2. The manufacturer shall establish the technical documentation described in paragraph 3 and he or his authorized representative established within the Community shall keep it for a period ending at least 10 years after the last product has been manufactured at the disposal of the relevant national authorities for inspection purposes.

Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the product on the Community market.

3. Technical documentation shall enable the conformity of the products with the requirements of the Directive to be assessed. It shall, as far as relevant for such assessment, cover the design, manufacture and operation of the product (see Annex XIII).
4. The manufacturer or his authorized representative shall keep a copy of the declaration of conformity with the technical documentation.
5. The manufacturer shall take all measures necessary in order that the manufacturing process shall ensure compliance of the manufactured products with the technical documentation referred to in point 2 and with the requirements of the Directive that apply to them.

ANNEX VI

INTERNAL PRODUCTION CONTROL PLUS TESTS

(module Aa, option 1)

This module consists of module A, as referred to in Annex V, plus the following supplementary requirements:

On one or several boats representing the production of the manufacturer one or more of the following tests, equivalent calculation or control shall be carried out by the manufacturer or on his behalf:

- test of stability according to point 3.2 of the Essential Requirements,
- test of buoyancy characteristics according to point 3.3 of the Essential Requirements

Provisions common to both variations

These tests or calculations or control shall be carried out on the responsibility of a notified body chosen by the manufacturer. On the responsibility of the notified body, the manufacturer shall affix the former's distinguishing number during the manufacturing process.

ANNEX VII

EC TYPE-EXAMINATION

(module B)

1. A notified body ascertains and attests that a specimen, representative of the production envisaged, meets the provisions of the Directive that apply to it.
2. The application for the EC type-examination shall be lodged by the manufacturer or his authorized representative established within the Community with a notified body of his choice.

The application shall include:

- the name and address of the manufacturer and, if the application is lodged by the authorized representative, his name and address in addition,
- a written declaration that the same application has not been lodged with any other notified body,
- the technical documentation, as described in point 3.

The applicant shall place at the disposal of the notified body a specimen, representative of the production envisaged and hereinafter called 'type' (*).

The notified body may request further specimens if needed for carrying out the test programme.

3. The technical documentation shall enable the conformity of the product with the requirements of the Directive to be assessed. It shall, as far as relevant for such assessment, cover the design, manufacture and functioning of the product (see Annex XIII).
4. The notified body shall:
 - 4.1. examine the technical documentation, verify that the type has been manufactured in conformity with the technical documentation and identify the elements which have been designed in accordance with the relevant provisions of the standards referred to in Article 5, as well as the components which have been designed without applying the relevant provisions of those standards;
 - 4.2. perform or have performed the appropriate examinations and necessary tests to check whether, where the standards referred to in Article 5 have not been applied, the solutions adopted by the manufacturer meet the Essential Requirements of the Directive;
 - 4.3. perform or have performed the appropriate examinations and necessary tests to check whether, where the manufacturer has chosen to apply the relevant standards, these have actually been applied;
 - 4.4. agree with the applicant the location where the examinations and necessary tests shall be carried out.
5. Where the type meets the provisions of the Directive, the notified body shall issue an EC type-examination certificate to the applicant. The certificate shall contain the name and address of the manufacturer, conclusions of the examination, conditions for its validity and the necessary data for identification of the approved type.

A list of the relevant parts of the technical documentation shall be annexed to the certificate and a copy kept by the notified body.

If the manufacturer is denied a type certification, the notified body shall provide detailed reasons for such denial.

6. The applicant shall inform the notified body that holds the technical documentation concerning the EC type-examination certificate of all modifications to the approved product which must receive additional approval where such changes may affect the conformity with the essential requirements or the prescribed conditions for use of the product. This additional approval is given in the form of an addition to the original EC type-examination certificate.
7. Each notified body shall communicate to the other notified bodies the relevant information concerning the EC type-examination certificates and additions issued and withdrawn.

(*) A type may cover several versions of the product provided that the differences between the versions do not affect the level of safety and the other requirements concerning the performance of the product.

8. The other notified bodies may receive copies of the EC type-examination certificates and/or their additions. The annexes to the certificates shall be kept at the disposal of the other notified bodies.
9. The manufacturer or his authorized representative shall keep with the technical documentation copies of EC type-examination certificates and their additions for a period ending at least 10 years after the last product has been manufactured.

Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the product on the Community market.

ANNEX VIII

CONFORMITY TO TYPE

(module C)

1. The manufacturer or his authorized representative established within the Community ensures and declares that the products concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the Directive that applies to them. The manufacturer shall affix the CE marking to each product and draw up a written declaration of conformity (see Annex XV).
2. The manufacturer shall take all measures necessary to ensure that the manufacturing process assures compliance of the manufactured products with the type as described in the EC type-examination certificate and with the requirements of the Directive that apply to them.
3. The manufacturer or his authorized representative shall keep a copy of the declaration of conformity for a period ending at least 10 years after the last product has been manufactured.

Where neither the manufacturer nor his authorized representative is established within the Community, the obligation to keep the technical documentation available shall be the responsibility of the person who places the product on the Community market (see Annex XIII).

ANNEX IX

PRODUCTION QUALITY ASSURANCE

(module D)

1. The manufacturer who satisfies the obligations of point 2 ensures and declares that the products concerned are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the Directive that apply to them. The manufacturer or his authorized representative established within the Community shall affix the CE marking to each product and draw up a written declaration of conformity (see Annex XV). The CE marking shall be accompanied by the distinguishing number of the notified body responsible for the monitoring as specified in point 4.
2. The manufacturer shall operate an approved quality system for production, final product inspection and testing as specified in paragraph 3 and shall be subject to monitoring as specified in point 4.

3. **Quality system**

- 3.1. The manufacturer shall lodge an application for assessment of his quality system with a notified body of his choice, for the products concerned.

The application shall include:

- all relevant information for the product category envisaged,
- the documentation concerning the quality system,
- where appropriate, the technical documentation of the approved type (see Annex XIII) and a copy of the EC type-examination certificate.

- 3.2. The quality system shall ensure compliance of the products with the type as described in the EC type-examination certificate and with the requirements of the Directive that apply to them.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. The quality system documentation must permit a consistent interpretation of the quality programmes, plan, manuals and records.

It shall contain in particular an adequate description of:

- the quality objectives and the organizational structure, responsibilities and powers of the management with regard to product quality,
- the manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,
- the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- the means to monitor the achievement of the required product quality and the effective operation of the quality system.

- 3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It shall presume conformity with these requirements in respect of quality systems that implement the relevant harmonized standard.

The auditing team shall have at least one member with experience of evaluation in the product technology concerned. The evaluation procedure shall include an inspection visit to the manufacturer's premises.

The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

- 3.4. The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorized representative shall keep the notified body that has approved the quality system informed of any intended updating of the quality system.

The notified body shall evaluate the modifications proposed and decide whether the amended quality system will still satisfy the requirements referred to in paragraph 3.2 or whether a reassessment is required.

It shall notify its decisions to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

4. Surveillance under the responsibility of the notified body

- 4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.
 - 4.2. The manufacturer shall allow the notified body entrance for inspection purposes to the locations of manufacture, inspection and testing, and storage and shall provide it with all necessary information, in particular:
 - the quality system documentation,
 - the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.
 - 4.3. The notified body shall periodically carry out audits to make sure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.
 - 4.4. Additionally the notified body may pay unexpected visits to the manufacturer. During such visits the notified body may carry out, or cause to be carried out, tests to verify that the quality system is functioning correctly, if necessary. The notified body shall provide the manufacturer with a visit report and, if a test has taken place, with a test report.
 5. The manufacturer shall, for a period ending at least 10 years after the last product has been manufactured, keep at the disposal of the national authorities:
 - the documentation referred to in the second indent of the second subparagraph of point 3.1,
 - the updating referred to in the second subparagraph of point 3.4,
 - the decision and reports from the notified body which are referred to in the final subparagraph of point 3.4, point 4.3 and point 4.4.
 6. Each notified body shall give the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn.
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ANNEX X

PRODUCT VERIFICATION

(module F)

1. This module describes the procedure whereby a manufacturer or his authorized representative established within the Community checks and attests that the products subject to the provisions of point 3 are in conformity with the type as described in the EC type-examination certificate and satisfy the requirements of the Directive that apply to them.
2. The manufacturer shall take all measures necessary in order that the manufacturing process ensures conformity of the products with the type as described in the EC type-examination certificate and with the requirements of the Directive that apply to them. The manufacturer or his authorized representative established within the Community shall affix the CE marking to each product and shall draw up a declaration of conformity (see Annex XV).
3. The notified body shall carry out the appropriate examinations and tests in order to check the conformity of the product with the requirements of the Directive either by examination and testing of every product as specified in point 4 or by examination and testing of products on a statistical basis, as specified in point 5, at the choice of the manufacturer.
- 3a. The manufacturer or his authorized representative shall keep a copy of the declaration of conformity for a period ending at least 10 years after the last product has been manufactured.
4. **Verification by examination and testing of every product**
 - 4.1. All products shall be individually examined and appropriate tests as set out in the relevant standard(s) referred to in Article 5 or equivalent tests shall be carried out in order to verify their conformity with the type as described in the EC type-examination certificate and the requirements of the Directive that apply to them.
 - 4.2. The notified body shall affix, or cause to be affixed, its distinguishing number to each approved product and draw up a written certificate of conformity relating to the tests carried out.
 - 4.3. The manufacturer or his authorized representative shall ensure that he is able to supply the notified body's certificates of conformity on request.
5. **Statistical verification**
 - 5.1. The manufacturer shall present his products in the form of homogeneous lots and shall take all measures necessary in order that the manufacturing process ensures the homogeneity of each lot produced.
 - 5.2. All products shall be available for verification in the form of homogeneous lots. A random sample shall be drawn from each lot. Products in a sample shall be individually examined and appropriate tests as set out in the relevant standard(s) referred to in Article 5, or equivalent tests, shall be carried out to ensure their conformity with the requirements of the Directive which apply to them and to determine whether the lot is accepted or rejected.
 - 5.3. The statistical procedure shall use the following elements:
 - the statistical method to be applied,
 - the sampling plan with its operational characteristics.
 - 5.4. In the case of accepted lots, the notified body shall affix, or cause to be affixed, its distinguishing number to each product and shall draw up a written certificate of conformity relating to the tests carried out. All products in the lot may be put on the market except those products from the sample which were found not to be in conformity.

If a lot is rejected, the notified body or the competent authority shall take appropriate measures to prevent the putting on the market of that lot. In the event of frequent rejection of lots the notified body may suspend the statistical verification.

The manufacturer may, under the responsibility of the notified body, affix the latter's distinguishing number during the manufacturing process.

- 5.5. The manufacturer or his authorized representative shall ensure that he is able to supply the notified body's certificates of conformity on request.

ANNEX XI

UNIT VERIFICATION

(module G)

1. This module describes the procedure whereby the manufacturer ensures and declares that the product concerned, which has been issued with the certificate referred to in point 2, conforms to the requirements of the Directive that apply to it. The manufacturer or his authorized representative established within the Community shall affix the CE marking to the product and draw up a declaration of conformity (see Annex XV).
2. The notified body shall examine the individual product and carry out the appropriate tests as set out in the relevant standard(s) referred to in Article 5, or equivalent tests, to ensure its conformity with the relevant requirements of the Directive.

The notified body shall affix, or cause to be affixed, its distinguishing number on the approved product and shall draw up a certificate of conformity concerning the tests carried out.

3. The aim of the technical documentation is to enable conformity with the requirements of the Directive to be assessed and the design, manufacture and operation of the product to be understood (see Annex XIII).
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ANNEX XII

FULL QUALITY ASSURANCE

(module H)

1. This module describes the procedure whereby the manufacturer who satisfies the obligations of paragraph 2 ensures and declares that the products concerned satisfy the requirements of the Directive that apply to them. The manufacturer or his authorized representative established within the Community shall affix the CE marking to each product and draw up a written declaration of conformity (see Annex XV). The CE marking shall be accompanied by the distinguishing number of the notified body responsible for the surveillance as specified in point 4.
2. The manufacturer shall operate an approved quality system for design, manufacture and final product inspection and testing as specified in point 3 and shall be subject to surveillance as specified in point 4.

3. **Quality system**

- 3.1. The manufacturer shall lodge an application for assessment of his quality system with a notified body.

The application shall include:

- all relevant information for the product category envisaged,
- the quality system's documentation.

- 3.2. The quality system shall ensure compliance of the products with the requirements of the Directive that apply to them.

All the elements, requirements and provisions adopted by the manufacturer shall be documented in a systematic and orderly manner in the form of written policies, procedures and instructions. This quality system documentation shall ensure a common understanding of the quality policies and procedures such as quality programmes, plans, manuals and records.

It shall contain in particular an adequate description of:

- the quality objectives and the organizational structure, responsibilities and powers of the management with regard to design and product quality,
- the technical design specifications, including standards, that will be applied and, where the standards referred to in Article 5 will not be applied in full, the means that will be used to ensure that the essential requirements of the Directive that apply to the products will be met,
- the design control and design verification techniques, processes and systematic actions that will be used when designing the products pertaining to the product category covered,
- the corresponding manufacturing, quality control and quality assurance techniques, processes and systematic actions that will be used,
- the examinations and tests that will be carried out before, during and after manufacture, and the frequency with which they will be carried out,
- the quality records, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.,
- the means to monitor the achievement of the required design and product quality and the effective operation of the quality system.

- 3.3. The notified body shall assess the quality system to determine whether it satisfies the requirements referred to in point 3.2. It shall presume compliance with these requirements in respect of quality systems that implement the relevant harmonized standard (EN 29001).

The auditing team shall have at least one member experienced as an assessor in the product technology concerned. The evaluation procedure shall include an assessment visit to the manufacturer's premises.

The decision shall be notified to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

- 3.4. The manufacturer shall undertake to fulfil the obligations arising out of the quality system as approved and to uphold it so that it remains adequate and efficient.

The manufacturer or his authorized representative shall keep the notified body that has approved the quality system informed of any intended updating of the quality system.

The notified body shall evaluate the modifications proposed and decide whether the amended quality system will still satisfy the requirements referred to in paragraph 3.2 or whether a reassessment is required.

It shall notify its decision to the manufacturer. The notification shall contain the conclusions of the examination and the reasoned assessment decision.

4. EC surveillance under the responsibility of the notified body

- 4.1. The purpose of surveillance is to make sure that the manufacturer duly fulfils the obligations arising out of the approved quality system.
- 4.2. The manufacturer shall allow the notified body entrance for inspection purposes to the locations of design, manufacture, inspection and testing, and storage, and shall provide it with all necessary information, in particular:
- the quality system documentation,
 - the quality records as foreseen by the design part of the quality system, such as results of analyses, calculations, tests, etc.,
 - the quality records as foreseen by the manufacturing part of the quality system, such as inspection reports and test data, calibration data, qualification reports of the personnel concerned, etc.
- 4.3. The notified body shall periodically carry out audits to make sure that the manufacturer maintains and applies the quality system and shall provide an audit report to the manufacturer.
- 4.4. Additionally the notified body may pay unexpected visits to the manufacturer. At the time of such visits, the notified body may carry out tests or have them carried out in order to check the proper functioning of the quality system where necessary; it shall provide the manufacturer with a visit report and, if a test has been carried out, with a test report.
5. The manufacturer shall, for a period ending at least 10 years after the last product has been manufactured, keep at the disposal of the national authorities:
- the documentation referred to in the second indent of the second subparagraph of point 3.1,
 - the updating referred to in the second subparagraph of point 3.4,
 - the decisions and reports from the notified body which are referred to in the final subparagraph of point 3.4, point 4.3 and point 4.4.
6. Each notified body shall forward to the other notified bodies the relevant information concerning the quality system approvals issued and withdrawn.
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*ANNEX XIII***TECHNICAL DOCUMENTATION SUPPLIED BY THE MANUFACTURER**

The technical documentation referred to in Annexes V, VII, VIII, IX and XI must comprise all relevant data or means used by the manufacturer to ensure that components or craft comply with the essential requirements relating to them.

The technical documentation shall enable understanding of the design, manufacture and operation of the product, and shall enable assessment of conformity with the requirements of this Directive.

The documentation shall contain so far as relevant for assessment:

- a general description of the type,
 - conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, etc.,
 - descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the product,
 - a list of the standards referred to in Article 5, applied in full or in part, and descriptions of the solutions adopted to fulfil the essential requirements when the standards referred to in Article 5 have not been applied,
 - results of design calculations made, examinations carried out, etc.,
 - test reports, or calculations namely on stability according to point 3.2 of the Essential Requirements and on buoyancy according to point 3.3 of the Essential Requirements.
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ANNEX XIV

MINIMUM CRITERIA TO BE TAKEN INTO ACCOUNT BY MEMBER STATES FOR THE NOTIFICATION OF BODIES

1. The body, its director and the staff responsible for carrying out the verification tests shall not be the designer, manufacturer, supplier or installer of boat or components which they inspect, nor the authorized representative of any of these parties. They shall not become either involved directly or as authorized representatives in the design, construction, marketing or maintenance of the said products. This does not preclude the possibility of exchanges of technical information between the manufacturer and the body.
 2. The body and its staff shall carry out the verification tests with the highest degree of professional integrity and technical competence and shall be free from all pressures and inducements, particularly financial, which might influence their judgment or the result of the inspection, especially from persons or groups of persons with an interest in the result of verifications.
 3. The body shall have at its disposal the necessary staff and possess the necessary facilities to enable it to perform properly the administrative and technical tasks connected with verification; it shall also have access to the equipment required for special verification.
 4. The staff responsible for inspection shall have:
 - sound technical and professional training,
 - satisfactory knowledge of the requirements of the tests they carry out and adequate experience of such tests,
 - the ability to draw up the certificates, records and reports required to authenticate the performance of the tests.
 5. The impartiality of inspection staff shall be guaranteed. Their remuneration shall not depend on the number of tests carried out or on the results of such tests.
 6. The body shall take out liability insurance unless its liability is assumed by the State in accordance with national law, or the Member State itself is directly responsible for the tests.
 7. The staff of the body shall be bound to observe professional secrecy with regard to all information gained in carrying out its tasks (except *vis-à-vis* the competent administrative authorities of the State in which its activities are carried out) under the Directive or any provision of national law giving effect to it.
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ANNEX XV

WRITTEN DECLARATION OF CONFORMITY

1. The written declaration of conformity to the provisions of the Directive must always accompany:
 - the recreational craft and be joined to the owner's manual (Annex I, point 2.5),
 - the components as referred to in Annex II.
2. The written declaration of conformity shall include the following ⁽¹⁾:
 - name and address of the manufacturer or his authorized representative established in the Community ⁽²⁾,
 - description of the recreational craft ⁽³⁾ or of the component ⁽³⁾,
 - references to the relevant harmonized standards used, or references to the specifications in relation to which conformity is declared,
 - where appropriate, reference to the EC type-examination certificate issued by a notified body,
 - where appropriate, the name and address of the notified body,
 - identification of the person empowered to sign on behalf of the manufacturer or his authorized representative established within the Community.

⁽¹⁾ and be drawn up in the language(s) as foreseen under point 2.5 of Annex I.

⁽²⁾ business name and full address; authorized representative must also give the business name and address of the manufacturer.

⁽³⁾ description of the product make, type, serial number, where appropriate.