



EUROPEAN COMMISSION

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Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on recreational craft and personal watercraft

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

General context

The Recreational Craft Directive¹ was adopted in 1994 to regulate the placing on the market of pleasure boats on the European market. It lays down essential safety requirements that manufacturers shall respect when designing watercraft in order to place those safe watercraft on the EU market. The manufacturers must fulfil several obligations in order to show that their product complies with the Directive, including a Declaration of Conformity of the watercraft with the essential requirements of the Directive, affixing the CE marking on the product and providing the users with information on the use and maintenance of the product.

Directive 94/25/EC was amended by Directive 2003/44/EC which introduces a set of limit values for exhaust emissions for propulsion engines and noise levels for watercrafts with propulsion engines, for both the compression ignition (CI) engines and the spark ignition (SI) engines. The key air pollutants regulated in the Recreational Craft Directive are: Nitrogen Oxides (NO_x), Hydrocarbons (HC) and the Particulates (PT). Furthermore, Directive 2003/44/EC enlarges the scope of the Recreational Craft Directive to cover also personal watercraft.

The same amending Directive provides a review clause (Article 2) which aims at reinforcing emission limits to reflect the technological progress of recreational marine engines as well as the need to harmonise the limits worldwide, particularly with the US. At the same time the vulnerable position of the SMEs should be taken into account as this sector consists mainly of small and medium enterprises (more than 95% of businesses are SMEs).

The SMEs active in the sector are mainly involved in boat building or engine marinising (modifying and fitting the on road or non road engine into the boat). There are also few small volume engine manufacturers operating on and supplying solely for the EU market.

The review clause (Article 2) also stipulates that the Commission shall report on the possibilities of further improving the environmental characteristics of engines and, if deemed appropriate in the light of this report, put forward appropriate proposals to the European Parliament and the Council. The Commission issued a report in 2007 (COM(2007/313) in which it announced that it would assess options to further reducing the exhaust emission limits of recreational marine engines.

Consistency with other policies and objectives of the Union

The Recreational Craft Directive is embedded in a framework of European Legislation combining marine safety and environmental aspects.

¹ 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 (OJ L 164, 30.6.1994; p.15)

One of the flagship policies defined in the Europe 2020 strategy² aims at establishing a resource efficient Europe to meet the climate/energy targets. The integrated maritime policy³ streamlines the protection of the environment in every Union policy, especially those affecting the maritime environment. The Recreational Craft Directive revision takes place in this general context. It also contributes to the objective of the 2010 International Year of Biodiversity.

The Recreational Craft Directive is in line with the objectives of the Clean Air for Europe (CAFE) initiative⁴ which provides an integrated and long term strategy for reducing the adverse impact of air pollution on human health and environment as specified in the Directive 2008/50/EC on ambient air quality and cleaner air for Europe.⁵

The Recreational Craft Directive only covers health related pollutants from engines exhaust emissions such as particulates matters (PM), nitrogen oxides (NO_x) and hydrocarbons (HC). It does not address CO₂. Today no inventory or data is available on CO₂ emissions from recreational craft engines. Nevertheless, CO₂ emissions from engines in this sector might be addressed in the future in line with the recent developments in the road sector, either by voluntary or regulatory measures.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

Consultation of interested parties

The revision has been under consideration since 2008 and has been the subject of a wide ranging consultation, namely in the framework of the Standing Committee for recreational craft with the Member States authorities and other stakeholders like industry, costumer associations, standardisation organisations and representatives of conformity assessment bodies.

A public internet consultation was organized in May/July 2009. The Commission services received 32 responses to the questionnaire published in English only. The results of the public consultation are published at:

http://ec.europa.eu/enterprise/newsroom/cf/itemlongdetail.cfm?item_id=3088&tpa_id=160&lang=en

The replies to this consultation revealed support to introduce more restrictive limits for exhaust emissions while taking into account the position of SMEs. The respondents indicated that limits should be common not only for the EU/EEA, states but also for other parts of the world, the United States in particular. The survey also confirmed that a further reduction of noise limits of watercrafts with propulsion engines would not effectively solve the problem of excessive noise in the exposed areas.

² COM (2010) 2020 final.

³ See for instance Green Paper COM (2006) 275 final "Towards a future Maritime Policy for the Union: A European vision for the oceans and the seas", the Communication from the Commission COM (2007) 575 final "An integrated Maritime Policy for the European Union", and more recently, the Clean Ship Initiative proposed by DG Mare in 2009. All these initiatives acknowledge the need for high protection of the environment in the context of any maritime policy.

⁴ See the link: http://europa.eu/legislation_summaries/environment/air_pollution/128031a_en.htm#KEY

⁵ See the link: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008L0050:EN:NOT>

The consultation highlighted that the specificities of the recreational marine sector should be better reflected in the EU legislation. Concerns were raised with regard to the very active second hand market as well as the self-built boats. The responses also indicated that there is a need to clarify the obligations of economic operators including private importers as well as competences of the national enforcement authorities

Collection and use of expertise

Several external studies have been commissioned to further examine the improvement of environmental characteristics of recreational marine engines and the impact thereof.

- **TNO**⁶ “Stocktaking study on the current status and developments of technology and regulations related to the environmental performance of recreational marine engines – Final Report”, January 2005. (“Stocktaking study”). The Commission requested this study after having introduced environmental requirements in the Recreational Craft Directive, to evaluate the environmental impact of the use of propulsion engines in recreational craft.
- **European Confederation of Nautical Industries** “Study on The Feasibility and Impact of Possible Scenarios for Further Emission Reduction Measures for Recreational Craft Engines in the Context of Directive 94/25/EC, as Amended by Directive 2003/44/EC: Impact Assessment Report – Final Report”, 26 October 2006”. This study identified and measured in detail the impacts and distributive effects of the four possible scenarios for further emission reduction measures identified in the TNO study.
- **ARCADIS**⁷ “*Complementary Impact Assessment Study on possible emission reduction measures for recreational marine engines*” – June 2008. Following the results of the previous study, the Commission launched another study in order to identify and assess new scenarios which would take into account the peculiar position of SMEs in the recreational craft sector.
- The studies are available at:
http://ec.europa.eu/enterprise/sectors/maritime/documents/index_en.htm

Impact assessment

The Commission has carried out a detailed impact assessment listed in its Work Programme.

The impact assessment focuses on the following three areas of the revision having substantial impacts:

A. exhaust emissions,

B. noise emissions; and

C alignment to the New Legal Framework:

⁶ “Stocktaking study on the current status and developments of technology and regulations related to the environmental performance of recreational marine engines – Final Report”, January 2005, TNO for DG Enterprise

⁷ “Complementary Impact Assessment Study on possible emission reduction measures for recreational marine engines”, June 2008, ARCADIS for DG Enterprise

For these three areas the following options were analysed in detail.

A. Exhaust emission limits for engines

Option 1 - No change

The existing **exhaust emission limits** in the Directive remain as defined by the amendment 2003/44/EC.

Option 2 - Stricter exhaust emission limits (Stage II)

The possibility of introducing the Stage II of the exhaust emission limits has been assessed. Altogether five possible scenarios to further restrict the limits have been proposed (see for details impact assessment p.21).

The Scenario 5 as the most suitable scenario was selected for further evaluation. This scenario 5 harmonises the limits with the US for both: Spark ignition (SI) engines and compression ignition (CI) engines. For CI engines the limits are those set in US EPA 40 CFR Part 1042 for marine diesel recreational engines. For SI engines the limits are those set in US EPA 40 CFR Part 1045 for new non-road SI engines, equipment and vessels.

Option 3 - Stricter exhaust emission limits (Stage II) combined with mitigating measures to limit negative economic/social effects

This option looks into different possibilities to tighten the rules for exhaust emissions while at the same time including a mitigating measure to limit the negative economic and social effects, which the introduction of higher emission limits may have on manufacturers.

Sub-option 3.1 – Use of a flexibility scheme

An option to mitigate the effects of stricter exhaust emission rules might be the introduction of the flexibility scheme. The idea is to allow the engine manufacturers to place on the market a limited number of recreational marine engines compliant with the previous stage of emissions, still after the entry into force of new emission limit values.

Sub-option 3.2 – Use of a transitional period for all engine manufacturers (3 years)

The proposal is to provide a three years transitional period after the entry into force of the Directive in order to allow the engine manufacturers to adapt the engines to the new technologies.

Sub-option 3.3 – Use of a transitional period for all engine manufacturers + a specific transitional period for small and medium sized engine manufacturers placing on the EU market the SI outboard engines < 15 kW (3+3 years).

The three years transitional period for the industry would remain. On top of this, an additional period of 3 years (6 years from the entry in force) would be granted to SME engine manufacturers who place on the market SI engines below 15 kW.

This last sub-option was selected in the impact assessment as the preferable option.

B. Noise emission limits for watercrafts with propulsion engines.

Option 1 - No change

The existing **noise emission limits** in the Directive remain as defined by the amendment 2003/44/EC.

Option 2 – Stricter noise emission limits

The current EU noise emission limits regulating the sound emitted by the watercraft would be tightened.

Option 1 (keeping the current limit values) was found to be the preferred option because of

- it does not entail compliance cost (companies will not have to invest in new technologies to achieve the required emission limits);
- it provides the possibility to achieve greater environmental benefits through tailor-made, national, measures, specifically designed for the areas in which watercraft operates in each country.

Member States would enjoy more leeway to design specific measures which would allow them to effectively restrict noise, since noise emitted by watercraft is not the sole result of the engines, but also depends on factors such as operation, weather conditions, etc.

C. Alignment of the RCD with the New Legislative Framework

Consequently to the adoption of Regulation (EC) No 765/2008 and of Decision 768/2008/EC, the Recreational Craft Directive has to be brought in line with the principles of New Legislative Framework. It means basically the inclusion of the chapters describing the obligations of economic operators, the competences of conformity assessment bodies and market surveillance authorities, new conformity assessment modules and the status of CE marking.

Since the Commission is engaged to align the sectorial legislation to the NLF, the impact assessment concentrated in analysing the impacts of the alignment only. These impacts should be mostly positive, since the horizontal provisions are clarifying certain issues which are subject to uncertainty for the moment. Legal certainty will be for the benefit of all parties: economic operators, national and European Union administration as well as consumers. Certain new obligations set for economic operators, can have an economic impact in terms of new costs for the economic operators.⁸

3. LEGAL ELEMENTS OF THE PROPOSAL

Main elements of the revision

3.1. Clarifying scope and concepts of the Directive

In order to facilitate the application of the Recreational craft Directive by manufacturers and national authorities, the scope and some definitions of this Directive are clarified.

⁸ The impact of the alignment with the NLF is closely evaluated in the Omnibus Impact Assessment (COM proposal aligning several directives to the NLF at the same time).

In the past, there have been debates about the content of the term “recreational craft” in the Directive which has been sometimes claimed to be an overall term covering both recreational craft and personal watercraft. This lack of clarity is now eliminated by introducing into the definitions a new overall concept “watercraft” which covers both recreational craft and personal watercraft.

Since the term “recreational craft” is now clearly limited to only some types of products covered by the Directive, the title of the Directive is changed to ““Directive on recreational craft and personal watercraft” in order for the title to correspond better to the scope.

As regards the list of excluded products, it is necessary to add amphibious craft to the list to exclude it from the requirements of this Directive. For reasons of consistency and clarification it is also specified that only personal watercraft intended for sports and leisure is included in the Directive, and not for instance personal watercraft intended for rescue and police services. Furthermore, the definition of “Canoes” that are excluded from the scope is clarified to indicate that the canoe must be “designed to be propelled by hand paddle power only” in order to be excluded from the scope of the Directive.

It is also appropriate to provide definitions of “watercraft built for own use” and of “private importer” specific to this sector in order to facilitate the understanding and uniform application of the Directive

3.2. General safety requirement

For reasons of clarity and consistency with other New Approach Directives, it is necessary to specify explicitly that that products covered by this Directive may only be placed on the market or put into service if they meet the general requirement imposing them to be without danger to the safety and health of persons, property or environment and only if they meet the essential requirements set out in Annex I. Laying down this general safety requirement is important since it could be used as a legal base for taking out of the market unsafe watercraft in particular in a situation where a new risk which is not covered by the harmonized standards is discovered.

3.3. Exhaust emissions

3.3.1. The new stricter emission limits

New stricter limits are foreseen for the exhaust emission of Nitrogen Oxides (NO_x), Hydrocarbons (HC) and the Particulates (PT).

For CI engines these limits are set applying the US EPA standards for marine diesel recreational engines (40 CFR Part 1042). For SI engines, the limits are set using the US EPA emission standards for new non-road SI engines, equipment and vessels (40 CFR Part 1045). This approach sets the limits at a level that reflects the technical development of cleaner marine engine technologies and that allows a development towards the harmonisation of exhaust emission limits worldwide.

The CO-limits are slightly relaxed as a trade-off for achieving the significant decrease of other air pollutants and in order to ensure that the compliance costs to industry remain proportionate. However, the relaxation does not lead to a safety risk.

3.3.2. *Reference fuels and test cycles*

The test fuels used in the assessment of conformity to the exhaust emission limits need to reflect the composition of the fuels used in the relevant market, and therefore the European test fuels must be used in the type approval by the European Union manufacturers. However, since non EU manufacturers may not have access to European reference fuels, it is necessary to foresee that the authorities performing the conformity assessment (Notified bodies) may also accept that engines are tested with other reference fuels. The choice of reference fuels is, however, limited to U.S. and Japanese specifications as specified in the relevant ISO standard in order to ensure quality and comparability of test results. (Reciprocating internal combustion engines-Exhaust emission measurement- Part 5: Test fuels. Currently EN ISO 8178-5:2008).

In addition, the relevant test cycles must be specified by reference to the same ISO standard (Reciprocating internal combustion engines - Exhaust emission measurement - Part 4: Test cycles for different engine applications which is currently EN ISO 8178-4:1996).

The recreational craft sector is actively involved in the development of innovative solutions for propulsion systems, which involve hybrid, electrical engines and even fuel cells. Specific test cycles may in future be developed for hybrid systems.

3.3.3. *Mitigating measures for industry*

A general three years transitional period for the industry is foreseen. In addition, as regards exhaust emission requirements, a supplementary 3 years is granted to SME engine manufacturers who place on the market the SI engines below 15 kW. This is needed in order to allow SMEs operating in this market segment to avoid financial disruption and to adjust their production to the new rules.

3.4. **Constructional requirements**

A new requirement is foreseen to impose mandatory installation of holding tanks to watercraft fitted with toilets in order to contribute to the marine environmental protection.

3.5. **Post construction assessment and private importer**

Directive 94/25/EC contains rules on the post construction assessment of recreational craft which is carried out by any natural or legal person established within the Community who places the product on the market in cases, where neither the manufacturer, nor his authorized representative fulfils the responsibilities for evaluating the conformity of products to the Directive. For consistency, it is appropriate to extent the scope of this procedure to cover not only recreational craft but also personal watercraft. For clarity, it must be specified by whom and in which situations exactly this procedure can be used. These are:

- Private importer, that is a natural or legal person who imports in the course of non-commercial activity a product from a third country into the Union with the intention of putting it into service for his own use.
- Any person placing on the market or putting into service an engine or a watercraft after a major modification or conversion thereof or any person changing the intended purpose of a watercraft not covered by the scope this Directive in a way that it falls under its scope

- Any person placing on the market a watercraft built for own use before the end of the 5 year period mentioned in Article 2 (2) (a) (vii).

As regards importing recreational craft and personal watercraft, it should be noted that compared to Directive 94/25/EC, the use of Post construction assessments is restricted to cases of non commercial import by private importers. The aim is to prevent abuse of this procedure for commercial ends. Finally, in order to ensure a reliable assessment of the conformity of the product by the notified body with regard to the post construction assessment, there is a need to widen the obligations of the person asking for the post construction assessment to provide documents to the notified body. It is foreseen that he has to provide all the documents necessary for the assessment of the conformity of the product.

3.6. Affixing of the CE-marking

Rules governing the affixing of the CE marking on the watercraft, components and engines are laid down in this Directive. Compared with Directive 94/25/EC, it is appropriate to enlarge the obligation to affix the CE-marking also to all inboard engines and stern drive engines without integral exhaust which are regarded as meeting the essential requirements set out in Annex I.B and I.C.

The CE marking must be affixed on the watercraft, engines and components. In case of components, where that are not possible or not warranted on account of the size or nature of that product, it can alternatively be affixed to the packaging and to the accompanying documents.

3.7. Reporting

In order to enforce the monitoring and the efficiency of this Directive, a new obligation is foreseen for the Member States to send every 5 years a report on the application of the Directive to the Commission. The report must in particular contain information on the situation of the safety and environmental performance of the products covered by the Directive and of the effectiveness of the Directive as well as presentation of the market surveillance activities performed by the Member States.

3.8. Aligning the Recreational Craft Directive with the New Legislative Framework (NLF) and the applicable conformity assessment procedures

3.8.1. Horizontal rules

On 9 the July 2008, the European Parliament and the Council adopted two legal instruments applying the marketing of products. Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products⁹ and Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products¹⁰.

The Regulation lays down horizontal provisions on the accreditation of conformity assessment bodies, on the CE marking and on the Community market surveillance framework

⁹ OJ L 218, 13.8.2008, p. 30.

¹⁰ OJ L 218, 13.8.2008, p. 82

for, and controls of, products entering the Community market which also apply to products covered by this Directive. For clarity, the application of the Regulation is explicitly mentioned in this Directive.

The Decision provides common principles and reference provisions for the purposes of legislation based on the New Approach principles. In order to ensure consistency with other sectoral product legislation, it is appropriate to align certain provisions of this Directive to that Decision, in so far as sectoral specificities do not require a different solution. Therefore, certain definitions, the general obligations of economic operators, the presumption of conformity, formal objections against harmonised standards, rules for the CE marking, requirements for conformity assessment bodies and notification procedures as well as the provisions concerning procedures dealing with products presenting a risk are aligned to that Decision. Sector specific deviations are necessary in particular in order to take into account the particular situation of private import of watercraft into EU.

3.8.2. *Conformity assessment procedures*

The conformity assessment procedures available to the manufacturer are also be set by reference to the horizontal Decision. However, certain supplementary requirements are laid down in Article 25 in order to take into account the specific needs of the sector as regards performing the conformity assessment and which are included in the conformity assessment modules of Directive 94/25/EC. Furthermore, the possibility to use accredited in-house bodies instead of Notified bodies in certain modules referred to in the horizontal Decision is not taken up in this Directive since it is not suitable for the sector.

Experience has shown that in order to take into account of manufacturing needs, it is appropriate to allow a greater choice of certification procedures than before in the following cases:

- for recreational craft of category C from 12 m to 24 m hull length where harmonised standards have been used (also internal product control + supervised tests possible);
- for components (also module B + E possible).
- As regards conformity assessment of exhaust emission and noise requirements, a distinction is referred to between the cases where the harmonised standards have been used, on the one hand, and the cases where they have not been used. In the latter cases, it is justified to require a more stringent conformity assessment procedure than in the former cases. Furthermore, the possibility of using the reference boat data for noise emissions testing is deleted as superfluous, since it has not been used in practice.

3.9. **Comitology and Delegated acts**

In order to take into account the Lisbon Treaty provisions on delegated acts, the rules on adopting delegated acts are inserted in the Directive.

Legal basis

The proposal is based on Article 95 of the EC-Treaty.

Subsidiarity principle

Directive 94/25/EEC is a total harmonisation directive adopted on the basis of Article 95 of the Treaty with the objective of the establishment and functioning of the internal market for watercraft. National legislation cannot impose additional provisions on the construction of watercraft or on exhaust and noise emissions of watercraft which would require the modification of the product or affect the conditions for its placing on the market. Therefore, the revision of provisions of Directive 94/25/EEC is, as far as the constructional requirements and exhaust emissions are concerned, within the exclusive competence of the Union. Therefore, the application of the principle of subsidiarity within the meaning of Article 5, second paragraph, of the EC-Treaty does not arise.

It is important to note that the revision aims at clarifying the scope of products covered by the Directive, but not at extending or changing it otherwise. Therefore the issue of subsidiarity within the meaning of Article 5, second paragraph, of the EC-Treaty does not arise in this respect either.

The respect of the subsidiarity principle could arise with regard to the provisions aiming at the improvement of effective enforcement of the Directive stemming mainly from the New Legal Framework (see also 3.7.). Experience has shown that coherent and effective enforcement and market surveillance has not been sufficiently achieved by Member States acting alone. As a consequence, the issue of setting some mandatory common minimum requirements arises. As a result of the proposal, this activity would remain within the authority of the national authorities but some general EU-wide requirements would be introduced to ensure equal treatment, a level playing field for economic operators, and a similar level of protection for the citizens in all the Member States.

Proportionality

In accordance with the principle of proportionality, the proposed modifications do not go beyond what is necessary to achieve the objectives set. In order to protect the benefits of the single market in the watercraft sector, any changes to the existing Directive have to be dealt with at Union level. If Member States acted on their own, there would be a proliferation of requirements which would hamper and undermine the achievements of the single market, and very likely lead to confusion for consumers and producers alike. The consequences could be higher prices for consumers, as producers would have to revert to abiding by member state specific requirements.

The modifications of the Directive do not impose unnecessary burden and costs on industry, especially on small and medium sized enterprises, or administrations. A number of options concern the improvement of clarity of the existing Directive without introducing significant new requirements with cost implication. Where modifications have more significant impacts, the analysis of the impacts of the option serves to provide the most proportionate response to the problems identified.

4. BUDGETARY IMPLICATIONS

There are no implications to the Community budget of this proposal.

5. ADDITIONAL INFORMATION

Repeal of existing legislation

The adoption of the proposal will lead to repeal of Directive 94/25/EC relating to recreational craft.

European Economic Area

The proposal concerns the EEA and should therefore be extended to the European Economic Area.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on recreational craft and personal watercraft

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee¹¹,

Having regard to the opinion of the Committee of the Regions¹²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) 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 craft¹³ was adopted in the context of establishing the internal market in order to harmonise safety characteristics of recreational craft in all Member States and to remove obstacles to trade in recreational craft between Member States.
- (2) Originally, Directive 94/25/EC covered only recreational craft of a minimum length of 2,5 m and a maximum length of 24 m. Directive 2003/44/EC of the Council and the European Parliament of 16 June 2003 amending Directive 94/25/EC on the approximation of the laws, regulations and administrative provisions of the Member States relating to recreational craft¹⁴ extended the scope of Directive 94/25/EC to include personal watercraft and integrated environmental protection requirements into that Directive by adopting exhaust emission limits (CO, HC, NOx and particulates) and noise limits levels for propulsion engines, for both the compression ignition engines and the spark ignition engines.

11 OJ C [...], [...], p. [...].

12 OJ C [...], [...], p. [...].

13 OJ L 164, 30.6.1994, p. 15.

14 OJ L 214, 26.08.2003 p. 18.

- (3) Directive 94/25/EC is based on the New Approach principles, as set out in the Council Resolution of 7 May 1985 on a new approach to technical harmonisation and standards¹⁵. Thus, it sets out only the essential safety requirements applying to recreational craft, whereas technical details are adopted by the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (Cenelec) in accordance with Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services¹⁶. Conformity with the harmonised standards so set, the reference number of which is published in the *Official Journal of the European Union*, provides a presumption of conformity with the requirements of Directive 94/25/EC. Experience has shown that those basic principles have worked well in this sector and should be maintained and even further promoted.
- (4) Technological developments in the market have, however, raised new issues with respect to the environmental requirements of Directive 94/25/EC. In order to take account of those developments and to provide clarification in relation to the framework within which products covered by this Directive may be marketed, certain aspects of Directive 94/25/EEC should be revised and enhanced and, in the interests of clarity, that Directive should be replaced by this Directive.
- (5) Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products¹⁷ lays down horizontal provisions on the accreditation of conformity assessment bodies, on the CE marking and on the Union market surveillance framework for, and controls of, products entering the Union market which also apply to products covered by this Directive.
- (6) Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products¹⁸ provides common principles and reference provisions for the purposes of legislation based on the New Approach principles. In order to ensure consistency with other sectoral product legislation, it is appropriate to align certain provisions of this Directive to that Decision, in so far as sectoral specificities do not require a different solution. Therefore, certain definitions, the general obligations of economic operators, the presumption of conformity, formal objections against harmonised standards, rules on CE marking, requirements for conformity assessment bodies and notification procedures and the provisions concerning procedures dealing with products presenting a risk should be aligned to that Decision.
- (7) In order to facilitate the application of this Directive by manufacturers and national authorities, the scope and definitions of Directive 94/25/EC should be clarified. In particular, it should be clarified that amphibious craft are excluded from the scope of this Directive. It is also necessary to specify which kind of canoes and kayaks are excluded from the scope of this Directive and to clarify that only personal watercraft intended for sports and leisure is covered by the Directive.

¹⁵ OJ C 136, 4.6.1985, p. 1.

¹⁶ OJ L 204, 21.7.1998, p. 37.

¹⁷ OJ L 218, 13.8.2008, p. 30.

¹⁸ OJ L 218, 13.8.2008, p. 82.

- (8) It is also appropriate to provide definitions of “watercraft built for own use” and of “private importer” specific to this sector in order to facilitate the understanding and uniform application of this Directive.
- (9) The products covered by this Directive that are placed on the Union market or put into service should comply with the relevant legislation of the Union, and economic operators should be responsible for the compliance of products, in relation to their respective roles in the supply chain, so as to ensure a high level of protection of public interests, such as health and safety, and the protection of consumers and of the environment, and to guarantee fair competition on the Union market.
- (10) All economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that products covered by this Directive do not endanger the safety and health of persons, property or the environment when correctly constructed and maintained and that they make available on the market only products which comply with the relevant legislation of the Union. This Directive should provide a clear and proportionate distribution of obligations which correspond to the role of each operator in the supply and distribution process.
- (11) As certain tasks can be executed only by the manufacturer, it is necessary to distinguish clearly between the manufacturer and operators further down the distribution chain. It is also necessary to distinguish clearly between the importer and the distributor, as the importer introduces products from third countries to the Union market. The importer should thus make sure that those products comply with the applicable Union requirements.
- (12) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the complete conformity assessment procedure. Conformity assessment should therefore remain the obligation of the manufacturer alone.
- (13) It is necessary to ensure that products covered by this Directive entering the Union market from third countries comply with all applicable Union requirements, and in particular that appropriate assessment procedures have been carried out by manufacturers with regard to those products. Provision should therefore be made for importers to make sure that the products they place on the market comply with the applicable requirements and that they do not place on the market products which do not comply with such requirements or which present a risk. For the same reason, provision should also be made for importers to make sure that conformity assessment procedures have been carried out and that product marking and documentation drawn up by manufacturers are available for inspection by the supervisory authorities.
- (14) Where the distributor makes a product covered by this Directive available on the market after it has been placed on the market by the manufacturer or the importer, it should act with due care to ensure that its handling of the product does not adversely affect its compliance. Both importers and distributors are expected to act with due care in relation to the requirements applicable when placing or making products available on the market.
- (15) When placing a product covered by this Directive on the market, importers should indicate on the product their name and the address at which they can be contacted.

Exceptions should be provided for in cases where the size or nature of a component does not allow for such an indication.

- (16) Any economic operator that either places a product on the market under its own name or trademark or modifies a product in such a way that compliance with applicable requirements may be affected should be considered to be the manufacturer and should assume the obligations of the manufacturer.
- (17) Distributors and importers, being close to the market place, should be involved in market surveillance tasks carried out by competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the product concerned.
- (18) Import of recreational craft and personal watercraft by private individuals from third countries to the Union is a specific feature of this sector. However, Directive 94/25/EC only contains specific provisions on the obligations of private importers as regards performing the conformity assessment (post construction assessment). Therefore, there is a need to clarify the other obligations of private importers which should be in principle harmonised with those of the manufacturer, with some exceptions related to the non-commercial nature of their activities.
- (19) Ensuring traceability of a product throughout the whole supply chain helps to make market surveillance simpler and more efficient. An efficient traceability system facilitates market surveillance authorities' task of tracing economic operators who made non-compliant product available on the market.
- (20) For reasons of clarity and consistency with other New approach Directives, it is necessary to specify explicitly that products covered by this Directive may be placed on the market or put into service only if they meet the general requirement not to endanger the safety and health of persons, property or environment and only if they meet the essential requirements set out in this Directive.
- (21) Options for further reducing the exhaust emission limits of recreational marine engines have been assessed in the Report on the possibilities of further improving the environmental characteristics of recreational craft engines, submitted pursuant to Article 2 of Directive 2003/44/EC, amending Directive 94/25/EC relating to recreational craft¹⁹. This report concluded that it is appropriate to set stricter limits than those set in Directive 2003/44/EC. Those limits should be set at a level that reflects the technical development of cleaner marine engine technologies and that allows a development towards the harmonisation of exhaust emission limits worldwide. The CO-limits, however, should be raised in order to allow the significant decrease of other air pollutants while ensuring that the compliance costs remain proportionate.
- (22) Depending on the fuel and power category, the test cycles for engines in marine applications described in the relevant ISO standard should be used.
- (23) The test fuels used in the assessment of conformity to the exhaust emission limits should reflect the composition of the fuels used in the relevant market and therefore

¹⁹ COM (2007) 313 final.

the European test fuels should be used in the type approval in the Union. However, since manufacturers from third countries may not have access to European reference fuels, it is necessary to allow approval authorities to accept that engines are tested with other reference fuels. The choice of reference fuels should however be limited to those specifications set out in the relevant ISO standard in order to ensure quality and comparability of test results.

- (24) In order to contribute to the protection of the marine environment, it is appropriate to adopt a requirement imposing mandatory installation of holding tanks to watercraft fitted with toilets.
- (25) Accident statistics show that the risk of inversion of multihull craft is very low. In spite of this low risk, it is appropriate to foresee that the risk of inversion must be considered also for multihull craft, so that only in case the multihull craft is not susceptible to inversion, the requirements concerning buoyancy and escape in case of inversion do not have to be complied with.
- (26) In accordance with the principle of subsidiarity, the provisions of this Directive should not affect Member States' entitlement to lay down 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 of waterways, provided that those provisions do not require modification to the watercraft which is in conformity with this Directive.
- (27) The CE marking, indicating the conformity of a product, is the visible consequence of a whole process comprising conformity assessment in a broad sense. The general principles governing the CE marking are set out in Regulation (EC) No 765/2008. Rules governing the affixing of the CE marking on the watercraft, components and engines should be laid down in this Directive. It is appropriate to enlarge the obligation to affix the CE-marking also to all inboard engines and stern drive engines without integral exhaust which are regarded as meeting the essential requirements set out in this Directive.
- (28) It is crucial to make clear to manufacturers and users that by affixing the CE marking to the product, the manufacturer declares that the product is in conformity with all applicable requirements and takes full responsibility thereof.
- (29) The CE marking should be the only marking of conformity indicating that the product covered by this Directive is in conformity with Union harmonisation legislation. However, other markings should be allowed as long as they contribute to the improvement of consumer protection and are not covered by Union harmonisation legislation.
- (30) In order to ensure compliance with the essential safety requirements, it is necessary to lay down appropriate conformity assessment procedures to be followed by the manufacturer. Those procedures should be set by reference to conformity assessment modules laid down in Decision No 768/2008/EC. Those procedures should be devised in the light of the level of the risk which may be inherent in the watercraft, engines and components. Therefore each category of conformity should be supplemented by an appropriate procedure or a choice between several equivalent procedures.

- (31) Experience has shown that it is appropriate to allow a wider range of conformity assessment modules in the following cases: for recreational craft of category C from 12 m to 24 m hull length where harmonised standards have been used as well as for components. As regards conformity assessment of exhaust emission and noise requirements, a distinction should be made between the cases where the harmonised standards have been used and where they have not, since in the latter cases, it is justified to require a more stringent conformity assessment procedure. Furthermore, the possibility of using the reference boat data for noise emissions testing should be suppressed as superfluous, since it has not been used in practice.
- (32) Directive 94/25/EC contains rules on the post construction assessment of recreational craft carried out by any natural or legal person established within the Union who places the product on the market in cases where neither the manufacturer nor his authorised representative fulfils the responsibilities for the products conformity to the Directive. For consistency, it is appropriate to extend the scope of this procedure to cover not only recreational craft but also personal watercraft. For clarity, it should be specified in which situations this procedure may be used. Furthermore, as regards import, its use should be restricted to cases of non commercial import by private importers to prevent abuse of this procedure for commercial purposes. There is also a need to widen the obligation of the person asking for the post construction assessment to provide documents to the Notified body in order to ensure a reliable assessment of the conformity of the product by the Notified body.
- (33) Since it is necessary to ensure a uniformly high level of performance of bodies performing conformity assessment of products covered by this Directive throughout the Union, and since all such bodies should perform their functions at the same level and under conditions of fair competition, obligatory requirements should be set for conformity assessment bodies wishing to be notified in order to provide conformity assessment services under this Directive.
- (34) In order to ensure a consistent level of quality in the performance of conformity assessment of products covered by this Directive, it is necessary not only to consolidate the requirements that conformity assessment bodies wishing to be notified must fulfill, but also, in parallel, to set requirements that notifying authorities and other bodies involved in the assessment, notification and monitoring of notified bodies must fulfill.
- (35) Regulation (EC) No 765/2008 complements and strengthens the existing framework for the market surveillance of products covered by Union harmonisation legislation, including products covered by this Directive. Member States should therefore organise and carry out market surveillance of those products in accordance with that Regulation, and where applicable, in accordance with Directive 2001/95/EC.
- (36) In order to increase transparency and to reduce processing time, it is necessary to improve the existing safeguard procedure allowing the Commission to examine the justification for a measure taken by a Member States against products it considers being non-compliant, with the aim of making it more efficient and of drawing on expertise available in the Member States.
- (37) The existing system should be complemented by a procedure allowing interested parties to be informed of measures taken with regard to products covered by this

Directive presenting a risk to the health and safety of persons or other issues of public interest protection. It should also allow market surveillance authorities, in cooperation with the relevant economic operators, to act at an earlier stage in respect of such products.

- (38) Where Member States and the Commission agree as to the justification for a measure taken by a Member State, no further involvement of the Commission should be required.
- (39) In order to take into account the progress of technical knowledge and new scientific evidence, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend Section 2 of Part B and Section 1 of Part C of Annex I, with the exception of direct or indirect modifications to exhaust or noise emission values and to the Froude and P/D ratio values, and Annexes V, VII and IX. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
- (40) The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (41) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) 182/2011 of the European Parliament and of the Council of 16 February laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers²⁰.
- (42) The examination should be used for the adoption of acts ensuring that this Directive is applied in a uniform manner, in particular as regards the supplementary provisions foreseen in Article 25 on conformity assessment procedures, and as regards the requirements on the boat design categories, builder's plate, discharge prevention and navigation lights.
- (43) In order to enforce the monitoring and the efficiency of this Directive, it should be provided that Member States send a report on the application of the Directive to the Commission, which should then draw up and publish a summary of the reports.
- (44) Member States should lay down rules on penalties applicable to infringements of this Directive and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.
- (45) In order to allow manufacturers and other economic operators sufficient time to adapt to the requirements laid down by this Directive, it is necessary to provide for a sufficient transitional period after the entry into force of this Directive during which products which comply with Directive 94/25/EEC may be placed on the market.
- (46) Directive 94/25/EEC should therefore be repealed.

²⁰ OJ L 55, 28.2.2011, p. 13.

- (47) Since the objective of this Directive, namely to ensure a high level of protection of human health and safety and protection of environment whilst guaranteeing the functioning of the internal market by setting harmonised safety requirements for products covered by this Directive and minimum requirements for market surveillance, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I GENERAL PROVISIONS

Article 1 Subject Matter

This Directive lays down requirements for the design and manufacture of products referred to in Article 2(1) and rules on their free movement in the Union.

Article 2 Scope

1. This Directive shall apply to the following products:
 - (a) recreational craft and partly completed recreational craft;
 - (b) personal watercraft;
 - (c) components listed in Annex II when placed on the Union market separately, hereinafter referred to as “components”;
 - (d) propulsion engines which are installed or specifically intended for installation on or in watercraft;
 - (e) propulsion engines installed on or in watercraft that are subject to a major engine modification;
 - (f) watercraft that are subject to major craft conversion.
2. This Directive shall not apply to the following products:
 - (a) with regard to the design and construction requirements set out in Part A of Annex I:
 - (i) watercraft intended solely for racing, including rowing racing boats and training rowing boats, labelled as such by the manufacturer;

- (ii) canoes and kayaks designed to be propelled by hand paddle power only, gondolas and pedalos;
 - (iii) sailing surfboards;
 - (iv) surfboards, including powered surfboards;
 - (v) original historical watercraft and individual replicas thereof designed before 1950, built predominantly with the original materials and labelled as such by the manufacturer;
 - (vi) experimental watercraft, provided that they are not subsequently placed on the Union market;
 - (vii) watercraft built for own use, provided that they are not subsequently placed on the Union market during a period of five years;
 - (viii) watercraft specifically intended to be crewed and to carry passengers for commercial purposes, in particular those defined in Article 2 of Directive 2006/87/EC of the European Parliament and the Council²¹ and in Article 3 of Directive 2009/45/EC of the European Parliament and the Council²², regardless of the number of passengers;
 - (ix) submersibles;
 - (x) air cushion vehicles;
 - (xi) hydrofoils;
 - (xii) external combustion steam powered watercraft, fuelled by coal, coke, wood, oil or gas;
 - (xiii) amphibious craft;
- (b) with regard to exhaust emission requirements set out in Part B of Annex I :
- (i) propulsion engines installed or specifically intended for installation on the following products:
 - watercraft intended solely for racing and labelled as such by the manufacturer;
 - experimental watercraft, provided that they are not subsequently placed on the Union market;
 - watercraft specifically intended to be crewed and to carry passengers for commercial purposes, without prejudice to Article 2(3), in particular those defined in Article 2 of Directive

²¹ OJ L 389, 30.12.2006, p. 1.

²² OJ L 163, 25.6.2009, p. 1.

2006/87/EC and in Article 3 of Directive 2009/45/EC, regardless of the number of passengers;

- submersibles;
 - air cushion vehicles;
 - hydrofoils;
 - amphibious craft;
- (ii) original and individual replicas of historical propulsion engines, which are based on a pre-1950 design, not produced in series and fitted on watercraft referred to in points (v) and (vii) of point (a);
 - (iii) propulsion engines built for own use provided that they are not subsequently placed on the Community market during a period of five years;
- (c) with regard to noise emission requirements referred to in Part C of Annex I:
- (i) all craft referred to in point (b);
 - (ii) watercraft built for own use, provided that they are not subsequently placed on the Union market during a period of five years.
3. The fact that the same watercraft 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 Union market for recreational purposes.

Article 3 *Definitions*

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

1. "watercraft" means any recreational craft or personal watercraft;
2. "recreational craft" means any boat of any type intended for sports and leisure purposes of hull length from 2,5 m to 24 m, measured according to the harmonised standard, regardless of the means of propulsion;
3. "personal watercraft" means a watercraft intended for sports and leisure purposes of less than 4 m in length which uses an internal combustion engine having a water jet pump as its primary source of propulsion and designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull;
4. "watercraft built for own use" means a watercraft built by its future user for his own use and which has not been partly or completely built by an economic operator for a private person under a contractual agreement.
5. "propulsion engine" means any spark or compression ignition, internal combustion engine used for propulsion purposes;

6. “major engine modification” means the modification of an engine which could potentially cause the engine to exceed the emission limits set out in Part B of Annex I or increases the rated power of the engine by more than 15 %;
7. “major craft conversion” means a conversion of a watercraft which changes the means of propulsion of the watercraft, involves a major engine modification, or alters the watercraft to such an extent that it is considered a new watercraft;
8. “means of propulsion” means the mechanical method by which the watercraft is driven;
9. “engine family” means the manufacturer's grouping of engines which, through their design, have similar exhaust or noise emission characteristics and which comply with the exhaust or noise emissions requirements of this Directive;
10. "making available on the market" means any supply of a product for distribution, consumption or use on the Union market, whether in return for payment or free of charge;
11. "placing on the market" means the first making available of a product on the Union market;
12. “putting into service” means the first use of a product covered by the Directive in the Union by its end user;
13. “manufacturer” means any natural or legal person who manufactures a product or has such a product designed or manufactured and markets that product under his name or trademark;
14. “authorised representative” means any natural or legal person established within the Union who has received a written mandate from the manufacturer to act on his behalf in relation to specified tasks;
15. "importer" means any natural or legal person established within the Union who places a product from a third country on the Union market;
16. "private importer” means any natural or legal person established within the Union who imports in the course of a non-commercial activity a product from a third country into the Union with the intention of putting it into service for his own use.
17. "distributor" means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a product available on the market;
18. "economic operators" means the manufacturer, the authorised representative, the importer and the distributor;
19. "harmonised standard" means a standard adopted by one of the European standardisation bodies listed in Annex I to Directive 98/34/EC on the basis of a request made by the Commission in accordance with Article 6 of that Directive;
20. "accreditation" means accreditation as defined in Article 2(10) of Regulation (EC) No 765/2008;

21. "national accreditation body" means accreditation body as defined in Article 2(11) of Regulation (EC) No 765/2008;
22. "conformity assessment" means the process demonstrating whether the requirements of this Directive relating to a product have been fulfilled;
23. "conformity assessment body" means a body that performs conformity assessment activities including calibration, testing, certification and inspection;
24. "recall" means any measure aimed at achieving the return of a product that has already been made available to the end user;
25. "withdrawal" means any measure aimed at preventing a product in the supply chain from being made available on the market;
26. "market surveillance" means the activities carried out and measures taken by public authorities to ensure that products comply with the applicable requirements set out in Union harmonisation legislation and do not endanger health, safety or any other aspect of public interest protection;
27. "CE marking" means a marking by which the manufacturer indicates that the product is in conformity with the applicable requirements set out in Union harmonisation legislation providing for its affixing;
28. "Union harmonisation legislation" means any Union legislation harmonising the conditions for the marketing of products.

Article 4
Essential requirements

1. The products referred to in Article 2(1) may be made available or 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, and only on the condition that they meet the applicable essential requirements set out in Annex I.
2. Member States shall ensure that the products referred to in Article 2(1) are not placed on the market or put into service unless they comply with the requirements of paragraph 1.

Article 5
National provisions concerning navigation

The provisions of this Directive shall not prevent Member States from adopting provisions concerning navigation on certain waters for the purpose of protection of the environment, the fabric of waterways, and ensuring safety of waterways, provided that those provisions do not require modification to watercraft conforming to this Directive.

Article 6
Free movement

1. Member States shall not impede the making available on the market or putting into service in their territory of watercraft complying with this Directive.
2. Member States shall not impede the making available on the market of partly-completed watercraft where the manufacturer or the importer declares, in accordance with Part A of Annex III, that they are intended to be completed by others.
3. Member States shall not impede the making available on the market or putting into service of components complying with this Directive which are intended to be incorporated into watercraft, in accordance with the declaration of the manufacturer or the importer referred to in Part B of Annex III.
4. Member States shall not impede the making available on the market or putting into service of any of the following:
 - (a) propulsion engines, whether or not installed in watercraft, complying with this Directive;
 - (b) engines type-approved in accordance with Directive 97/68/EC of the European Parliament and the Council²³ which are in compliance with stage IIIA, IIIB or stage IV emission limits for CI engines used in other applications than propulsion of inland waterway vessels, locomotives and railcars, as provided for in point 4.1.2. of Annex I to that Directive;
 - (c) engines type-approved in accordance with Directive 2005/55/EC of the European Parliament and the Council²⁴ where the manufacturer declares in accordance with point 9 of Annex IV that the engine will meet the exhaust emission requirements of this Directive when installed in a watercraft in accordance with the manufacturer's supplied instructions.
5. At trade fairs, exhibitions, demonstrations and other similar events Member States shall not impede the showing of the products referred to in Article 2(1) which do not comply with this Directive, provided that a visible sign clearly indicates that such products do not comply with this Directive and will not be made available or put into service in the Union until they have been made to comply.

²³ OJ L 59, 27.2.1998, p. 1.

²⁴ OJ L 275, 20.10.2005, p. 1.

CHAPTER II

OBLIGATIONS OF ECONOMIC OPERATORS

Article 7 *Obligations of manufacturers*

1. When placing their products on the market, manufacturers shall ensure that they have been designed and manufactured in accordance with the requirements set out in Article 4(1) and Annex I.
2. Manufacturers shall draw up the technical documentation in accordance with Article 26 and carry out the conformity assessment procedure applicable or have it carried out in accordance with Articles 20 to 23 and Article 25.

Where compliance of a product with the applicable requirements has been demonstrated by that procedure, manufacturers shall draw up an EU declaration of conformity, as referred to in Article 16 and affix the CE marking, as set out in Article 18(1).

3. Manufacturers shall keep the technical documentation and a copy of the EU declaration of conformity for 10 years after the product has been placed on the market.
4. Manufacturers shall ensure that procedures are in place for series production to remain in conformity. Changes in product design or characteristics and changes in the harmonised standards to which conformity of a product is declared shall be adequately taken into account.

When deemed appropriate with regard to the risks presented by a product, manufacturers shall, to protect the health and safety of consumers, carry out sample testing of products made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming products and product recalls, and shall keep distributors informed of any such monitoring.

5. Manufacturers shall ensure that their products bear a type, batch or serial number or other element allowing their identification, or, where the size or nature of the components does not allow it, that the required information is provided on the packaging or in a document accompanying the product, in accordance with point 2.1 of Part A of Annex I.
6. Manufacturers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where that is not possible, on its packaging or in a document accompanying the product. The address shall indicate a single point at which the manufacturer can be contacted.
7. Manufacturers shall ensure that the product is accompanied by instructions and safety information in a language or languages which can be easily understood by consumers and other end-users, as determined by the Member State concerned.

8. Manufacturers who consider or have reason to believe that a product which they have placed on the market is not in conformity with this Directive shall immediately take the necessary corrective measures to bring that product into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the product presents a risk, manufacturers shall immediately inform the competent national authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.
9. Manufacturers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of the product, in a language easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by products which they have placed on the market.

Article 8
Authorised representatives

1. A manufacturer may, by a written mandate, appoint an authorised representative.
2. The obligations laid down in Article 7(1) and the drawing up of technical documentation shall not form part of the authorised representative's mandate.
3. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following:
 - (a) keep a copy of the EU declaration of conformity and the technical documentation at the disposal of national surveillance authorities for 10 years after the product has been placed on the market;
 - (b) further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of a product;
 - (c) cooperate with the competent national authorities, at their request, on any action taken to eliminate the risks posed by products covered by their mandate.

Article 9
Obligations of importers

1. Importers shall place only compliant products on the Union market.
2. Before placing a product on the market, importers shall ensure that the appropriate conformity assessment procedure has been carried out by the manufacturer. They shall ensure that the manufacturer has drawn up the technical documentation, that the product bears the CE marking and is accompanied by the documents required in accordance in Article 16 and point 2.5 of part A of Annex I, point 4 of part B of Annex I and point 2 of part C of Annex I and that the manufacturer has complied with the requirements set out in Article 7(5) and (6).

Where an importer considers or has reason to believe that a product is not in conformity with the requirements set out in Article 4(1) and Annex I, he shall not place the product on the market until it has been brought into conformity. Furthermore, where the product presents a risk, the importer shall inform the manufacturer and the market surveillance authorities to that effect.

3. Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, in case of components where that is not possible, on its packaging or in a document accompanying the product.
4. Importers shall ensure that the product is accompanied by instructions and safety information in a language or languages easily understood by consumers and other end-users, as determined by the Member State concerned.
5. Importers shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in Article 4(1) and Annex I.
6. When deemed appropriate with regard to the risks presented by a product, importers shall, to protect the health and safety of consumers, carry out sample testing of marketed products, investigate, and, if necessary, keep a register of complaints, of non-conforming products and product recalls, and shall keep distributors informed of such monitoring.
7. Importers who consider or have reason to believe that a product which they have placed on the market is not in conformity with this Directive shall immediately take the corrective measures necessary to bring that product into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the product presents a risk, importers shall immediately inform the competent national authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.
8. Importers shall, for a period of 10 years after the product has been placed on the market, keep a copy of the EU declaration of conformity at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities, upon request.
9. Importers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of a product in a language easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by products which they have placed on the market.

Article 10
Obligations of distributors

1. When making a product available on the market distributors shall act with due care in relation to the requirements of this Directive.

2. Before making a product available on the market distributors shall verify that the product bears the CE marking, that it is accompanied by the documents required in Article 7 (7), Article 16 and point 2.5 of part A of Annex I, point 4 of part B of Annex I and point 2 of part C of Annex I and by instructions and safety information in a language or languages easily understood by consumers and other end-users in the Member State in which the product is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article 7(5) and (6) and Article 9(3).

Where a distributor considers or has reason to believe that a product is not in conformity with the requirements set out in article 4(1) and Annex I, he shall not make the product available on the market until it has been brought into conformity. Furthermore, where the product presents a risk, the distributor shall inform the manufacturer or the importer, as well as the market surveillance authorities, to that effect.

3. Distributors shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in article 4(1) and Annex I.
4. Distributors who consider or have reason to believe that a product which they have made available on the market is not in conformity with this Directive shall make sure that the corrective measures necessary to bring that product into conformity, to withdraw it or recall it, if appropriate, are taken. Furthermore, where the product presents a risk, distributors shall immediately inform the competent national authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.
5. Distributors shall, further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of the product. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by products which they have made available on the market.

Article 11

Cases in which obligations of manufacturers apply to importers and distributors

An importer or distributor shall be considered a manufacturer for the purposes of this Directive and he shall be subject to the obligations of the manufacturer under Article 7, where he places a product on the market under its name or trademark or modifies a product already placed on the market in such a way that compliance with the requirements of this Directive may be affected.

Article 12

Obligations of private importers

1. If neither the manufacturer nor his authorised representative established within the Union fulfils the responsibilities for the conformity of the product with this

Directive, a private importer shall carry out or have carried out the obligations of the manufacturer set out in paragraphs 1 to 4 and paragraph 7 and 9 of Article 7.

2. If the required technical documentation is not available from the manufacturer, the private importer shall have it drawn up using appropriate expertise, which may include a Notified body which is not involved in the conformity assessment of the product concerned.
3. The private importer shall ensure that the name and address of the Notified body which has carried out the conformity assessment of the product is marked on the product.

Article 13

Identification of economic operators

1. Economic operators shall, on request, identify the following to the market surveillance authorities:
 - (a) any economic operator who has supplied them with a product;
 - (b) any economic operator to whom they have supplied a product.

Economic operators shall be able to present the information referred to in the first paragraph for a period of 10 years after they have been supplied with the product and for a period of 10 years after they have supplied the product.

2. Private importers shall, on request, identify to the market surveillance authorities the economic operator who has supplied them with the product.

Private importers shall be able to present the information referred to in the first subparagraph for a period of 10 years after they have been supplied with the product.

CHAPTER III

CONFORMITY OF THE PRODUCT

Article 14

Presumption of conformity

Products which are in conformity with harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union* shall be presumed to be in conformity with the requirements covered by those standards or parts thereof, set out in Article 4(1) and Annex I.

Article 15

Formal objection to a harmonised standard

1. When a Member State or the Commission considers that a harmonised standard does not entirely satisfy the requirements which it covers and which are set out in Article 4(1) and Annex I, the Commission or the Member State concerned shall bring the matter before the Committee set up by Article 5 of Directive 98/34/EC, giving its arguments. The Committee shall, having consulted the relevant European standardisation bodies, deliver its opinion without delay.
2. In the light of the Committee's opinion, the Commission shall decide to publish, not to publish, to publish with restriction, to maintain, to maintain with restriction or to withdraw the references to the harmonised standard concerned in or from the *Official Journal of the European Union*.
3. The Commission shall inform the European standardisation body concerned and, if necessary, request the revision of the harmonised standards concerned.

Article 16

EU declaration of conformity

1. The EU declaration of conformity shall state that the fulfilment of requirements specified in Article 4(1) and Annex I has been demonstrated.
2. The EU declaration of conformity shall have the model structure set out in Annex IV to this Directive, shall contain the elements specified in the relevant modules set out in Annex II to Decision 768/2008/EC and shall be continuously updated. It shall be translated into the language or languages required by the Member State on whose market the product is made available or put into service.
3. By drawing up the EU declaration of conformity, the manufacturer or private importer shall assume responsibility for the compliance of the product.

4. The EU declaration of conformity shall always accompany the following:
 - (a) the watercraft and shall be included with the owner's manual referred to in point 2.5 of Part A of Annex I;
 - (b) the components when placed on the market separately;
 - (c) propulsion engines and shall be included with the owner's manual referred to in point 4 of Part B of Annex I.

Article 17
General principles of the CE marking

The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008.

Article 18
Products subject to CE marking

1. The following products shall bear the CE marking when they are made available on the market or put into service:
 - (a) watercraft and components which are regarded as meeting the corresponding essential requirements set out in Annex I;
 - (b) outboard engines which are regarded as meeting the essential requirements set out in Parts B and C of Annex I;
 - (c) stern drive engines with integral exhaust which are regarded as meeting the essential requirements set out in Parts B and C of Annex I;
 - (d) inboard engines and stern drive engines without integral exhaust which are regarded as meeting the exhaust emission requirements set out in Parts B and C of Annex I.
2. Member States shall presume that the products referred to in paragraph 1 bearing the CE marking comply with this Directive.

Article 19
Rules and conditions for affixing the CE marking

1. The CE marking shall be affixed visibly, legibly and indelibly to the products referred to in Article 18(1). In case of components, where that is not possible or not warranted on account of the size or nature of that product, it shall be affixed to the packaging and to the accompanying documents.
2. The CE marking shall be affixed before the product is placed on the market or put into service. CE-marking, and the identification number referred to in paragraph 3, may be followed by a pictogram or any other mark indicating a special risk or use.

3. The CE marking shall be followed by the identification number of the notified body, where that body is involved in the production control phase.

The identification number of the notified body shall be affixed by the body itself or, under its instructions, by the manufacturer or its authorised representative.

CHAPTER IV CONFORMITY ASSESSMENT

Article 20

Applicable conformity assessment procedures

1. The manufacturer or his authorised representative shall apply the procedures set out in the modules referred to in Articles 21, 22 and 23 before placing on the market products referred to in Article 2(1).
2. The private importer shall apply the procedure referred to in Article 24 before putting into service a product referred to in Article 2(1) if neither the manufacturer nor his authorised representative has carried out the conformity assessment for the product concerned.
3. Any person placing on the market or putting into service an engine or a watercraft after a major modification or conversion thereof or any person changing the intended purpose of a watercraft not covered by the scope this Directive in a way that it falls under its scope shall apply the procedure referred to in Article 24 before placing the product on the market or putting it into service.
4. Any person placing on the market a watercraft built for own use before the end of the 5 year period referred to in point (vii) of Article 2(2)(a) shall apply the procedure referred to in Article 24 before placing the product on the market.

Article 21

Design and construction

1. With regard to design and construction of recreational craft the following procedures set out in Annex II to Decision No 768/2008/EC shall apply:
 - (a) For categories A and B referred to in point 1 of Part A of Annex I.
 - (i) For recreational craft from 2,5 m to 12 m hull length any of the following modules:
 - module A1 (internal production control plus supervised product testing),
 - module B (EU type-examination) together with module C, D, E or F,
 - module G (conformity based on unit verification);

- module H (conformity based on full quality assurance);
- (ii) For recreational craft from 12 m to 24 m hull length any of the following modules:
 - module B (EU type-examination) together with module C, D, E or F,
 - module G (conformity based on unit verification);
 - module H (conformity based on full quality assurance);
- (b) For category C referred to in point 1 of Part A of Annex I:
 - (i) For recreational craft from 2,5 m to 12 m hull length, any of the following modules:
 - where the harmonised standards relating to points 3.2 and 3.3 of Part A of Annex I are complied with: module A (internal production control), module A1 (internal production control plus supervised product testing), module B (EU type-examination) together with module C, D, E or F, module G (conformity based on unit verification) or module H (conformity based on full quality assurance);
 - where the harmonised standards relating to points 3.2 and 3.3 of Part A of Annex I are not complied with: module A1 (internal production control plus supervised product testing), module B (EU type-examination) together with module C, D, E or F, module G (conformity based on unit verification) or module H (conformity based on full quality assurance);
 - (ii) For recreational craft from 12 m to 24 m hull length, any of the following modules:
 - where the harmonised standards relating to points 3.2 and 3.3 of Part A of Annex I are complied with: Module A1 (internal production control plus supervised product testing), module B (EU type-examination) together with module C, D, E or F, module G (conformity based on unit verification); or module H (conformity based on full quality assurance);
 - where the harmonised standards relating to points 3.2 and 3.3 of Part A of Annex I are not complied with: module B (EU type-examination) together with module C, D, E or F, module G (conformity based on unit verification) or module H (conformity based on full quality assurance);
- (c) for category D referred to in point 1 of Part A of Annex I:
 - (i) for recreational craft from 2,5 m to 24 m hull length, any of the following modules:

- module A (internal production control)
 - module A1 (internal production control plus supervised product testing),
 - module B (EU type-examination) together with module C, D, E or F,
 - module G (conformity based on unit verification);
 - module H (conformity based on full quality assurance).
2. With regard to design and construction of personal watercraft any of the following procedures set out in Annex II to Decision No 768/2008/EC shall apply:
- (a) module A (internal production control)
 - (b) module A1 (internal production control plus supervised product testing),
 - (c) module B (EU type-examination) together with module C, D, E or F,
 - (d) module G (conformity based on unit verification);
 - (e) module H (conformity based on full quality assurance).
3. With regard to design and construction of components any of the following procedures set out in Annex II to Decision No 768/2008/EC shall apply:
- (a) module B (EU type-examination) together with module C, D, E or F,
 - (b) module G (conformity based on unit verification);
 - (c) module H (conformity based on full quality assurance).

Article 22
Exhaust emissions

With regard to exhaust emissions, for products referred to in Article 2(1)(d) and (e), the engine manufacturer or his authorised representative in the Union shall apply the following procedures set out in Annex II to Decision No 768/2008/EC:

- (a) where tests are conducted using the harmonised standard, any of the following modules:
 - (i) module B (the EU type-examination) together with module C, D, E or F,
 - (ii) module G (conformity based on unit verification);
 - (iii) module H (conformity based on full quality assurance);
- (b) where tests are conducted without using the harmonised standard, module B together with module C1.

Article 23
Noise emissions

1. With regard to noise emissions for recreational craft with stern drive engines without integral exhausts or inboard propulsion engine installations as well as recreational craft with stern drive without integral exhausts or with inboard propulsion installations which are subject to major craft conversion and subsequently placed in the Union market within five years following conversion, the craft manufacturer or his authorised representative established in the Union shall apply the following procedures set out in Annex II to Decision No 768/2008/EC:
 - (a) where tests are conducted using the harmonised standard for noise measurement, any of the following modules:
 - (i) module A1 (internal production control plus supervised testing);
 - (ii) module G (conformity based unit verification);
 - (iii) module H (conformity based on full quality assurance);
 - (b) Where tests are conducted without using the harmonised standard for noise measurement, module G (conformity based unit verification);
 - (c) Where the Froude number and power displacement ratio method is used for assessment, any of the following modules:
 - (i) module A (internal production control);
 - (ii) module G (conformity based unit verification);
 - (iii) module H (conformity based on full quality assurance).

2. With regard to noise emissions for personal watercraft and outboard engines and stern drive engines with integral exhausts intended for installation on recreational craft, the personal watercraft or engine manufacturer shall apply the following procedures set out in Annex II to Decision No 768/2008/EC:
 - (a) Where tests are conducted using the harmonised standard for noise measurement:
 - (i) module A1 (internal production control plus supervised testing);
 - (ii) module G (conformity based unit verification);
 - (iii) module H (conformity based on full quality assurance);
 - (b) Where tests are conducted without using the harmonised standard for noise measurement, module G (conformity based unit verification).

Article 24
Post construction assessment

The post construction assessment referred to in Article 20(2), (3) and (4) shall be carried out as set out in Annex V.

Article 25
Supplementary requirements

1. When Module B of Annex II to Decision No 768/2008/EC is used, the EU type examination shall be carried out in the manner specified in the second indent of point 2 of that module.

A production type referred to in Module B 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.

2. When module A1 of Annex II to Decision No 768/2008/EC is used, the products checks shall be carried out on one or several watercraft representing the production of the manufacturer and the supplementary requirements set out in Annex VI to this Directive shall apply.
3. The possibility to use accredited in-house bodies referred to in modules A1 and C1 of Annex II to Decision No 768/2008/EC shall not be applicable.
4. When module F of Annex II to Decision No 768/2008/EC is used, the procedure described in Annex VII to this Directive shall apply for the assessment of conformity with the exhaust emission requirements.
5. When Module C of Annex II to Decision No 768/2008/EC is used, with regard to the assessment of conformity with the exhaust emission requirements of this Directive and if the manufacturer is not working under a relevant quality system as described in module H of Annex II to Decision No 768/2008/EC, a notified body chosen by the manufacturer shall carry out product checks or have them carried out at random intervals determined by that body, in order to verify the quality of the internal checks on the product. When the quality level appears unsatisfactory or when it seems necessary to verify the validity of the data presented by the manufacturer, the procedure set out in Annex VIII to this Directive shall apply.

Article 26
Technical documentation

1. The technical documentation referred to in Article 7(2) shall contain all relevant data or details of the means used by the manufacturer to ensure that the product comply with the requirements set out in Article 4(1) and Annex I. It shall, in particular, contain the documents listed in Annex IX.
2. The technical documentation shall enable understanding of the design, manufacture and operation of the product, and shall enable assessment of conformity with this Directive.

CHAPTER V

NOTIFICATION OF CONFORMITY ASSESSMENT BODIES

Article 27 *Notification*

Member States shall notify the Commission and the other Member States of the bodies authorised to carry out third-party conformity assessment tasks under this Directive.

Article 28 *Notifying authorities*

1. Member States shall designate a notifying authority that shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies for the purposes of this Directive, and for the monitoring of notified bodies, including compliance with the provisions of Article 34.
2. Member States may decide that the assessment and monitoring referred to in paragraph 1 shall be carried out by a national accreditation body within the meaning of and in accordance with Regulation (EC) No 765/2008.
3. Where the notifying authority delegates or otherwise entrusts the assessment, notification or monitoring referred to in paragraph 1 to a body which is not a governmental entity that body shall be a legal entity and shall comply *mutatis mutandis* with the requirements laid down in Article 29. In addition, that body it shall have arrangements to cover liabilities arising out of its activities.
4. The notifying authority shall take full responsibility for the tasks performed by the body referred to in paragraph 3.

Article 29 *Requirements relating to notifying authorities*

1. Notifying authorities shall be established in such a way that no conflict of interest with conformity assessment bodies occurs.
2. Notifying authorities shall be organised and operated so as to safeguard the objectivity and impartiality of their activities.
3. Notifying authorities shall be organised in such a way that each decision relating to notification of a conformity assessment body is taken by competent persons different from those who carried out the assessment.
4. Notifying authorities shall not offer or provide any activities that conformity assessment bodies perform or consultancy services on a commercial or competitive basis.

5. Notifying authorities shall safeguard the confidentiality of the information they obtain.
6. Notifying authorities shall have a sufficient number of competent personnel at their disposal for the proper performance of their tasks.

Article 30

Information obligation on notifying authorities

Member States shall inform the Commission of their procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, and of any changes thereto.

The Commission shall make that information publicly available.

Article 31

Requirements relating to notified bodies

1. For the purposes of notification under this Directive, conformity assessment bodies shall meet the requirements laid down in paragraphs 2 to 11.
2. Conformity assessment bodies shall be established under national law and shall have legal personality.
3. A conformity assessment body shall be a third-party body independent of the organisation or the product it assesses.

A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of products which it assesses, may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered such a body.

4. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the products which they assess, nor the authorised representative of any of those parties. This shall not preclude the use of assessed products that are necessary for the operations of the conformity assessment body or the use of such products for personal purposes.

A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be directly involved in the design or manufacture, the marketing, installation, use or maintenance of those products, or represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified. This shall in particular apply to consultancy services.

Conformity assessment bodies shall ensure that the activities of their subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

5. Conformity assessment bodies and their personnel shall carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.
6. A conformity assessment body shall be capable of carrying out the conformity assessment tasks assigned to it by the provisions of Articles 20 - 25 and in relation to which it has have been notified, whether those tasks are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

At all times and for each conformity assessment procedure and each kind or category of products in relation to which it has been notified, a conformity assessment body shall have at its disposal the necessary:

- (a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks;
- (b) descriptions of procedures in accordance with which conformity assessment is carried out ensuring the transparency and ability of reproduction of those procedures.

It shall have appropriate policies and procedures in place that distinguish between tasks it carries out as a notified body and other activities;

- (c) procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the technology of the product in question and the mass or serial nature of the production process.

It shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities.

7. The personnel responsible for carrying out the conformity assessment activities shall have the following:
 - (a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;
 - (b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments;
 - (c) appropriate knowledge and understanding of the essential requirements, the applicable harmonised standards, the relevant Union harmonisation legislation and the relevant national legislation

- (d) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.
8. The impartiality of conformity assessment bodies, their top level management and assessment personnel shall be ensured.
- The remuneration of the top level management and assessment personnel of a conformity assessment body shall not depend on the number of assessments carried out or on the results of those assessments.
9. Conformity assessment bodies shall take out liability insurance unless liability is assumed by the Member State in accordance with its national law, or the Member State itself is directly responsible for the conformity assessment.
10. The personnel of a conformity assessment body shall observe professional secrecy with regard to all information obtained in carrying out their tasks under Articles 20 - 25 or any provision of national law giving effect to that Chapter, except in relation to the competent authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.
11. Conformity assessment bodies shall participate in, or ensure that their assessment personnel are informed of, the relevant standardisation activities and the activities of the notified body coordination group established under Article 44, and shall apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

Article 32
Presumption of conformity

Where a conformity assessment body demonstrates its conformity with the criteria laid down in the relevant harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union* it shall be presumed to comply with the requirements set out in Article 31 in so far as the applicable harmonised standards cover those requirements.

Article 33
Formal objection to a harmonised standard

Where a Member State or the Commission has a formal objection to the harmonised standards referred to in Article 32, the provisions of Article 15 shall apply.

Article 34
Subsidiaries of and subcontracting by notified bodies

1. Where a notified body subcontracts specific tasks connected with conformity assessment or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 31 and shall inform the notifying authority accordingly.

2. Notified bodies shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established.
3. Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.
4. Notified bodies shall keep at the disposal of the notifying authority the relevant documents concerning the assessment of the qualifications of the subcontractor or the subsidiary and the work carried out by them under Articles 20 - 25.

Article 35
Application for notification

1. A conformity assessment body shall submit an application for notification to the notifying authority of the Member State in which it is established.
2. That application referred to in paragraph 1 shall be accompanied by a description of the conformity assessment activities, the conformity assessment module or modules and the product or products for which that body claims to be competent, as well as by an accreditation certificate, where one exists, issued by a national accreditation body attesting that the conformity assessment body fulfils the requirements laid down in Article 31.
3. Where the conformity assessment body concerned cannot provide an accreditation certificate, it shall provide the notifying authority with all the documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements laid down in Article 31.

Article 36
Notification procedure

1. Notifying authorities may notify only conformity assessment bodies which have satisfied the requirements laid down in Article 31.
2. Notifying authorities shall notify the Commission and the other Member States using the electronic notification tool developed and managed by the Commission.
3. The notification shall include full details of the conformity assessment activities, the conformity assessment module or modules, product or products concerned and the relevant attestation of competence.
4. Where a notification is not based on an accreditation certificate as referred to in Article 35(2), the notifying authority shall provide the Commission and the other Member States with documentary evidence which attests to the conformity assessment body's competence and the arrangements in place to ensure that that body will be monitored regularly and will continue to satisfy the requirements laid down in Article 31.
5. The body concerned may perform the activities of a notified body only where no objections are raised by the Commission or the other Member States within two

weeks of a notification where an accreditation certificate is used or within two months of a notification where accreditation is not used.

Only such a body shall be considered a notified body for the purposes of this Directive.

6. The Commission and the other Member States shall be notified of any subsequent relevant changes to the notification.

Article 37

Identification numbers and lists of notified bodies

1. The Commission shall assign an identification number to a notified body.

It shall assign a single such number even where the body is notified under several Union acts.

2. The Commission shall make publicly available the list of the bodies notified under this Directive, including the identification numbers that have been allocated to them and the activities for which they have been notified.

The Commission shall ensure that that list is kept up to date.

Article 38

Changes to notifications

1. Where a notifying authority has ascertained or has been informed that a notified body no longer meets the requirements laid down in Article 31, or that it is failing to fulfil its obligations, the notifying authority shall restrict, suspend or withdraw notification as appropriate, depending on the seriousness of the failure to meet those requirements or fulfil those obligations. It shall immediately inform the Commission and the other Member States accordingly.
2. In the event of restriction, suspension or withdrawal of notification, or where the notified body has ceased its activity, the notifying Member State shall take appropriate steps to ensure that the files of that body are either processed by another notified body or kept available for the responsible notifying and market surveillance authorities at their request.

Article 39

Challenge of the competence of notified bodies

1. The Commission shall investigate all cases where it doubts, or doubt is brought to its attention regarding, the competence of a notified body or the continued fulfillment by a notified body of the requirements and responsibilities to which it is subject.
2. The notifying Member State shall provide the Commission, on request, with all information relating to the basis for the notification or the maintenance of the competence of the body concerned.

3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.
4. Where the Commission ascertains that a notified body does not meet or no longer meets the requirements for its notification, it shall inform the notifying Member State accordingly and request it to take the necessary corrective measures, including de-notification if necessary.

Article 40

Operational obligations of notified bodies

1. Notified bodies shall carry out conformity assessments in accordance with the conformity assessment procedures provided for in articles 20 - 25.
2. Conformity assessments shall be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators. Conformity assessment bodies shall perform their activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

In so doing they shall nevertheless respect the degree of rigour and the level of protection required for the compliance of the product with this Directive.

3. Where a notified body finds that requirements laid down in Article 4 (1) and Annex I or in corresponding harmonised standards have not been met by a manufacturer, it shall require that manufacturer to take appropriate corrective measures and shall not issue a conformity certificate.
4. Where, in the course of the monitoring of conformity following the issue of a certificate, a notified body finds that a product is no longer in compliance, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw the certificate if necessary.
5. Where corrective measures are not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw any certificates, as appropriate.

Article 41

Appeal procedure

Member States shall ensure that an appeal procedure against decisions of the notified bodies is available

Article 42

Information obligation on notified bodies

1. Notified bodies shall inform the notifying authority of the following:
 - (a) any refusal, restriction, suspension or withdrawal of a certificate or approval decision;

- (b) any circumstances affecting the scope of and conditions for notification;
 - (c) any request for information which they have received from market surveillance authorities regarding conformity assessment activities;
 - (d) on request, conformity assessment activities performed within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.
2. Notified bodies shall provide the other bodies notified under this Directive carrying out similar conformity assessment activities covering the same products with relevant information on issues relating to negative and, on request, positive conformity assessment results.

Article 43

Exchange of experience

The Commission shall provide for the organisation of exchange of experience between the Member States' national authorities responsible for notification policy.

Article 44

Coordination of notified bodies

The Commission shall ensure that appropriate coordination and cooperation between bodies notified under this Directive are put in place and properly operated in the form of a sectoral group or groups of notified bodies.

Member States shall ensure that the bodies notified by them participate in the work of that group or groups, directly or by means of designated representatives.

CHAPTER VI

UNION MARKET SURVEILLANCE, CONTROL OF PRODUCTS ENTERING THE UNION MARKET AND SAFEGUARD PROCEDURES

Article 45

Union market surveillance and control of products entering the Union market

Article 15(3) and Articles 16 to 29 of Regulation (EC) No 765/2008 shall apply to surveillance and control of products covered by this Directive.

Article 46

Procedure for dealing with products presenting a risk at national level

1. Where the market surveillance authorities of one Member State have taken action pursuant to Article 20 of Regulation (EC) No 765/2008, or where they have sufficient reason to believe that a product covered by this Directive presents a risk to the health or safety of persons or to environmental and consumer protection requirements covered by this Directive they shall carry out an evaluation in relation to the product concerned covering all the requirements laid down in this Directive. The relevant economic operators or the private importer shall cooperate as necessary with the market surveillance authorities.

Where, in the course of that evaluation, the market surveillance authorities find that the product does not comply with the requirements laid down in this Directive, they shall without delay require the relevant economic operator or the private importer to take all appropriate corrective action to bring the product into compliance with those requirements, to withdraw the product from the market, or to recall it within a reasonable period, commensurate with the nature of the risk, as they may prescribe.

The market surveillance authorities shall inform the relevant notified body accordingly.

Article 21 of Regulation (EC) No 765/2008 shall apply to the measures referred to in the second subparagraph of this paragraph.

2. Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions which they have required the relevant economic operator or the private importer to take.
3. The economic operator shall ensure that all appropriate corrective action is taken in respect of all the products concerned that it has made available on the market throughout the Union.

The private importer shall ensure that all appropriate corrective action is taken in respect of the product that he has imported in the Union for his own use.

4. Where the relevant economic operator does not take adequate corrective action within the period referred to in the second subparagraph of paragraph 1, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the product being made available on their national market, to withdraw the product from that market or to recall it.

Where the private importer does not take adequate corrective action within the period referred to in the second subparagraph of paragraph 1, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the product's use on their national market.

The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.

5. The information referred to in paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant product, the origin of the product, the nature of the non-compliance alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator or the private importer. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either:
 - (a) failure of the product to meet requirements relating to the health or safety of persons or to environmental and consumer protection requirements laid down in this Directive; or
 - (b) shortcomings in the harmonised standards referred to in article 15 conferring a presumption of conformity.
6. Member States other than the Member State initiating the procedure shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the product concerned, and, in the event of disagreement with the notified national measure, of their objections.
7. Where, within 3 months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.
8. Member States shall ensure that appropriate restrictive measures are taken in respect of the product concerned, such as withdrawal of the product from their market, without delay.

Article 47

Union safeguard procedure

1. Where, on completion of the procedure set out in Article 46(3) and (4), objections are raised against a measure taken by a Member State, or where the Commission

considers a national measure to be contrary to Union legislation, the Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators or the private importer and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall decide whether the national measure is justified or not.

The Commission shall address its decision to all Member States and shall immediately communicate it to them and the relevant economic operator or operators or the private importer.

2. If the national measure is considered justified, all Member States shall take the measures necessary to ensure that the non-compliant product is withdrawn from their market, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw the measure.
3. Where the national measure is considered to be justified and the non-compliance of the product is attributed to shortcomings in the harmonised standards referred to in point (b) of Article 46(5), the Commission shall inform the relevant European standardisation body or bodies and shall bring the matter before the Committee set up by Article 5 of Directive 98/34/EC. That Committee shall consult the relevant European standardisation body or bodies and deliver its opinion without delay.

Article 48

Formal non-compliance

1. Without prejudice to Article 46, where a Member State makes one of the following findings, it shall require the relevant economic operator or the private importer to put an end to the non-compliance concerned:
 - (a) the conformity marking has been affixed in violation of Article 17, 18 or 19;
 - (b) the conformity marking has not been affixed;
 - (c) the EU declaration of conformity has not been drawn up;
 - (d) the EU declaration of conformity has not been drawn up correctly;
 - (e) the technical documentation is either not available or not complete.
2. Where the non-compliance referred to in paragraph 1 persists, the Member State concerned shall take all appropriate measures to restrict or prohibit the product being made available on the market or ensure that it is recalled or withdrawn from the market, or in the case of a product imported by a private importer for his own use, that its use is prohibited or restricted.

CHAPTER VII

DELEGATED ACTS AND IMPLEMENTING ACTS

Article 49

Delegating power

The Commission shall be empowered to adopt delegated acts in accordance with Article 50 to amend the following Annexes to take into account the progress of technical knowledge and new scientific evidence:

- (a) point 2 of Part B and point 1 of Part C of Annex I, excluding direct or indirect modifications to exhaust or noise emission values and to the Froude and P/D ratio values;
- (b) Annexes V; VII and IX..

The amendments referred to in point (a) may include amendments to reference fuels and to the requirements for exhaust and noise emissions testing and to durability criteria.

Article 50

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 49 shall be conferred for an indeterminate period of time from the date specified in Article 60.
3. The delegation of powers referred to in Article 49 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 49 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

Article 51
Implementing acts

The measures necessary for the implementation of this Directive ensuring that it is applied in a uniform manner, in particular as regards the implementation of the requirements foreseen in Article 25 and of the provisions concerning boat design categories, builder's plate, discharge prevention and navigation lights foreseen in part A of Annex I, shall be adopted in accordance with the procedure referred to in Article 52(2).

Article 52
Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply, having regard to the provisions of Article 8 thereof.

CHAPTER VIII

SPECIFIC ADMINISTRATIVE PROVISIONS

Article 53 *Reporting*

By [[dd/mm/yyyy] five years after the date referred to in the second subparagraph of Article 57(1)] and every five years thereafter , Member States shall send the Commission a report on the application of this Directive. That report shall contain an evaluation of the situation concerning the safety and environmental performance of the products and of the effectiveness of this Directive, as well as a presentation of the market surveillance activities performed by that Member State.

The Commission shall draw up and publish a summary of the national reports.

Article 54 *Motivation of measures*

Any measure taken pursuant to this Directive to prohibit or restrict the placing on the market or putting into service of a product, to withdraw a product or to recall a product from the market shall state the exact grounds on which it is based.

Such measures shall be notified without delay to the party concerned, which shall at the same time be informed of the remedies available to it under the laws in force in the relevant Member State and of the time limits applicable to them.

Article 55 *Transparency*

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

Article 56 *Penalties*

Member States shall lay down rules on penalties, which may include criminal sanctions for serious infringements, applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented.

The penalties provided for shall be effective, proportionate and dissuasive and may be increased if the relevant economic operator or the private importer has previously committed a similar infringement of this Directive.

Member States shall notify those provisions to the Commission by *[[dd/mm/yyyy] the date specified in the second subparagraph of Article 57(1)]* at the latest and shall notify it without delay of any subsequent amendment affecting them.

CHAPTER IX FINAL AND TRANSITIONAL PROVISIONS

Article 57 Transposition

1. Member States shall adopt and publish, by [[dd/mm/yyyy] *18 months after the entry into force foreseen in Article 60*] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply these provisions from [[dd/mm/yyyy] *two years after the entry into force foreseen in Article 60*].

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

Article 58 Transitional period

1. Member States shall not impede the making available on the market or the putting into service of products covered by Directive 94/25/EC which are in conformity with that Directive and which were placed on the market or put into service before [dd/mm/yyyy] (*1 year after the date referred to in the second subparagraph of Article 57*).
2. Member States shall not impede the making available on the market or the putting into service of outboard SI engines with power below 15 kilowatts which comply with the stage I exhaust emission limits laid down in point 2.1 of Part B of Annex I and which were manufactured by small and medium-sized enterprises as defined in Commission Recommendation 2003/361/EC²⁵ and placed on the market before [dd/mm/yyyy] (*4 years after the referred to in the second subparagraph of Article 57 (1)*).

²⁵ OJ [...]

Article 59
Repeal

Directive 94/25/EC is repealed with effect from *[[dd/mm/yyyy] the date set out in the second subparagraph of Article 57(1)]*.

References to the repealed Directive shall be construed as references to this Directive.

Article 60
Entry into force

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

Article 61
Addressees

This Directive is addressed to the Member States.

Done at [...],

For the European Parliament
The President

For the Council
The President

ANNEX I

ESSENTIAL REQUIREMENTS

A. Essential safety requirements for the design and construction.

1. BOAT DESIGN CATEGORIES

Design category	Wind force (Beaufort scale)	Significant wave height ($H^{1/3}$, 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, 0,3

Explanatory notes:

- A. OCEAN: Designed for extended voyages where conditions may exceed wind force 8 (Beaufort scale) and significant wave heights of 4 m and above but excluding abnormal conditions, 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 sheltered coastal waters, small bays, small lakes, rivers and canals when conditions up to, and including, wind force 4 and significant wave heights up to, and including, 0,3 m may be experienced, with occasional waves of 0,5 m maximum height, for example from passing vessels.

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

2. GENERAL REQUIREMENTS

2.1. Watercraft identification

Each watercraft shall be marked with a 14-digit identification number including the following information:

(29) manufacturer's code,

(30) country of manufacture,

- (31) unique serial number,
- (32) month and year of production,
- (33) model year.

Detailed requirements for the marking referred to in the first paragraph are set out in the relevant harmonised standard.

2.2. Builder's plate

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

- (a) manufacturer's name, registered trade name or registered trade mark;
- (b) CE marking;
- (c) boat design category according to Section 1;
- (d) manufacturer's maximum recommended load derived from point 3.6 excluding the weight of the contents of the fixed tanks when full;
- (e) number of persons recommended by the manufacturer for which the watercraft was designed to carry when under way.

In the case of private import, the contact details and the recommendations referred to in points (a), (d) and (e) shall include those of the notified body which has carried out the conformity assessment.

2.3. Protection from falling overboard and means of reboarding

Watercraft shall be designed to minimise 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 watercraft shall be provided with an owner's manual in accordance with Article 7(7) and Article 9(4). This manual shall draw particular attention to risks of fire and flooding and shall contain the information referred to in points 2.2, 3.6 and 4 as well as the unladen weight of the watercraft in kilograms.

3. INTEGRITY AND STRUCTURAL REQUIREMENTS

3.1. Structure

The choice and combination of materials and its construction shall ensure that the watercraft 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 point 3.6.

3.2. Stability and freeboard

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

3.3. Buoyancy and flotation

The watercraft shall be constructed as to ensure that it has buoyancy characteristics appropriate to its design category according to point 1.1, and the manufacturer's maximum recommended load according to point 3.6. All habitable multihull craft shall be so designed that it is either not susceptible to inversion or it has sufficient buoyancy to remain afloat in the inverted position.

Watercraft 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 watercraft or its weather tight integrity when closed.

Windows, port lights, doors and hatch covers shall withstand the water pressure likely to be encountered in their specific position, as well as point loads 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 in accordance with point 3.6, shall be fitted with a means of shutoff which shall be readily accessible.

3.5. Flooding

All watercraft shall be designed so as to minimise the risk of sinking.

Where appropriate, particular attention shall be paid to:

- (a) cockpits and wells, which should be self-draining or have other means of keeping water out of the boat interior;
- (b) ventilation fittings;
- (c) 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 watercraft was designed, shall be determined according to the design category (Section 1), stability and freeboard (point 3.2) and buoyancy and flotation (point 3.3).

3.7. Life raft stowage

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

3.8. Escape

All habitable multihull craft that is susceptible of inversion when used in their design category shall be provided with viable means of escape in the event of inversion.

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

3.9. Anchoring, mooring and towing

All watercraft, 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 watercraft 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.

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 minimise 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 not sustain combustion.

5.1.2. *Ventilation*

The engine compartment shall be ventilated. The dangerous ingress of water into the engine compartment through all openings 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 Newton's (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.

5.1.5. *Personal watercraft running without driver*

Personal watercraft shall be designed either with an automatic engine cut-off or with an automatic device to provide reduced speed, circular, forward movement when the driver dismounts deliberately or falls overboard.

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 minimise 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.

Petrol fuel tanks shall not form part of the hull and shall be:

- (a) protected against fire from the engine and from all other source of ignition;
- (b) separated from living quarters.

Diesel fuel tanks may be integral with the hull.

5.3. Electrical system

Electrical systems shall be designed and installed so as to ensure proper operation of the watercraft under normal conditions of use and shall be such as to minimise 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 and propulsion control 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 watercraft 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 watercraft 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.

5.6. Fire protection

5.6.1. General

The type of equipment installed and the layout of the watercraft 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 routing of electrical wiring in particular away from heat sources and hot areas.

5.6.2. Fire-fighting equipment

Recreational craft shall be supplied with fire-fighting equipment appropriate to the fire hazard, or the position and capacity of fire-fighting equipment appropriate to the fire hazard shall be indicated. The craft shall not be put into service until the appropriate fire-fighting equipment is in place. 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 recreational craft.

5.7. Navigation lights

Where navigation lights are fitted, they shall comply with the 1972 COLREG (The International Regulations for Preventing Collisions at Sea) or CEVNI (European Code for Interior Navigations for inland waterways) Regulations as appropriate.

5.8. Discharge prevention and installations facilitating the delivery ashore of waste

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

Watercraft fitted with toilets shall have holding tanks; or water treatment systems.

Watercraft with installed holding tanks shall be fitted with a standard discharge connection to enable pipes of reception facilities to be connected with the craft discharge pipeline.

In addition, any through-the-hull pipes for human waste shall be fitted with valves which are capable of being secured in the closed position.

B. Essential requirements for exhaust emissions from propulsion engines

Propulsion engines shall comply with the essential requirements for exhaust emissions set out in this Part.

1. ENGINE IDENTIFICATION

1.1. Each engine shall be clearly marked with the following information:

- (a) engine manufacturer's trademark or tradename ;
- (b) engine type, engine family, if applicable;
- (c) a unique engine identification number;
- (d) CE marking.

1.2. The marks referred to in point 1.1. must be durable for the normal life of the engine and must be clearly legible and indelible. If labels or plates are used, they must be attached in such a manner that the fixing is durable for the normal life of the engine, and the labels/plates cannot be removed without destroying or defacing them.

1.3. The marks must be secured to an engine part necessary for normal engine operation and not normally requiring replacement during the engine life.

1.4. The marks must be located so as to be readily visible after the engine has been assembled with all the components necessary for engine operation.

2. EXHAUST EMISSION REQUIREMENTS

Propulsion engines shall be designed, constructed and assembled so that when correctly installed and in normal use, emissions shall not exceed the limit values obtained from point 2.1., table 1 and point 2.2., tables 2 and 3:

2.1. Values applying until [dd/mm/yyyy (the end of the transitional period referred to in Article 58(stage I))]:

Table 1

(g/kWh)

Type	Carbon monoxide $CO = A + B/P_N^n$			Hydrocarbons $HC = A + B/P_N^n$			Nitrogen oxides NO_x	Particulates PT
	A	B	n	A	B	n		
Two-stroke spark ignition	150,0	600,0	1,0	30,0	100,0	0,75	10,0	Not applicable
Four-stroke spark ignition	150,0	600,0	1,0	6,0	50,0	0,75	15,0	Not applicable

Compression ignition	5,0	0	0	1,5	2,0	0,5	9,8	1,0
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Where A, B and n are constants in accordance with the table, P_N is the rated engine power in kW.

2.2. Values applying from [dd/mm/yyyy (the end of the transitional period referred to in Article 58 (Stage II))]:

Table 2:

Exhaust emission limits for compression ignition engines(**)

Swept Volume SV (L/cyl)	Rated Engine Power P_N (kW)	Particulates PT (g/kWh)	Hydrocarbons + Nitrogen Oxides HC + NO _x (g/kWh)
SV < 0,9	$P_N < 37$	The values referred to in table 1	
	$37 \cdot P_N < 75^{(*)}$	0,30	4,7
	$75 \cdot P_N < 3700$	0,15	5,8
$0,9 \cdot SV < 1,2$	$P_N < 3700$	0,14	5,8
$1,2 \cdot SV < 2,5$		0,12	5,8
$2,5 \cdot SV < 3,5$		0,12	5,8
$3,5 \cdot SV < 7,0$		0,11	5,8

(*) Alternatively, engines with rated engine power at or above 37 kW and below 75 kW and with a swept volume below 0.9 L/cyl shall not exceed a PT emission limit of 0.20 g/kW-hr and a combined HC+NOX emission limit of 5.8 g/kW-hr.

(**) Any compression-ignition engine shall not exceed a Carbon monoxide (CO) emission limit of 5,0 g/kWh.

Table 3: Exhaust emission limits for spark ignition engines

Type of engine	Rated Engine Power P_N	Carbon monoxide CO	Hydrocarbons + Nitrogen Oxides HC + NO _x

	(kW)	(g/kWh)	(g/kWh)
Stern-drive and inboard engines	$P_N \cdot 373$	75	5
	$373 < P_N \cdot 485$	350	16
	$P_N > 485$	350	22
Outboard engines and PWC engines	$P_N \cdot 4,3$	$500 - 5,0 \times P_N$	30
	$40 \geq P_N > 4,3$	$500 - 5,0 \times P_N$	$15,7 + \left(\frac{50}{P_N^{0,9}} \right)$
	$P_N > 0,40$	300	$15,7 + \left(\frac{50}{P_N^{0,9}} \right)$

2.3. Test cycles and reference fuels:

2.3.1. Test cycles and weighting factors to be applied:

For variable speed CI engines test cycle E1 or E5 shall apply. For variable speed SI engines test cycle E4 shall be applied. For variable speed CI engines above 130 kW test cycle E3 can also be applied.

Cycle E1, Mode number	1	2	3	4	5
Speed	Rated		Intermediate		Low-idle
Torque, %	100	75	75	50	0
Weighting factor	0.08	0.11	0.19	0.32	0.3
Cycle E3, Mode number	1	2	3	4	
Speed, %	100	91	80	63	
Power, %	100	75	50	25	
Weighting factor	0.2	0.5	0.15	0.15	

Cycle E4, Mode number	1	2	3	4	5
Speed, %	100	80	60	40	Idle
Torque, %	100	71.6	46.50	25.3	0
Weighting factor	0.06	0.14	0.15	0.25	0.40
Cycle E5, Mode number	1	2	3	4	5
Speed, %	100	91	80	63	Idle
Torque, %	100	75	50	25	0
Weighting factor	0.08	0.13	0.17	0.32	0.3

2.4. Application of the engine family and choice of parent engine

The engine manufacturer shall be responsible for defining those engines from his range which are to be included in a family.

A parent engine shall be selected from an engine family in such a way that its emissions characteristics are representative for all engines in that engine family. The engine incorporating those features that are expected to result in the highest specific emissions (expressed in grams per kilowatt hour), when measured on the applicable test cycle, should normally be selected as the parent engine of the family.

2.5. Test fuels

The test fuel used for emission testing shall meet the following characteristics:

Petrol fuels				
Property	RF-02-99 Unleaded		RF-02-03 Unleaded	
	min	max	min	max
Research Octane Number (RON)	95	---	95	---
Motor Octane Number (MON)	85	---	85	---
Density at 15 °C (kg/m ³)	748	762	740	754

Initial boiling point (°C)	24	40	24	40
Mass fraction of sulphur (mg/kg)	---	100	---	10
Lead content (mg/l)	---	5	---	5
Reid vapour pressure (kPa)	56	60	---	---
Vapour pressure (DVPE) (kPa)	---	---	56	60

Diesel fuels				
Property	RF-06-99		RF-06-03	
	min	max	min	max
Cetane number	52	54	52	54
Density at 15 °C (kg/m ³)	833	837	833	837
Final boiling point (°C)	---	370	---	370
Flash point (°C)	55	---	55	---
Mass fraction of sulphur (mg/kg)	To be reported	300 (50)	---	10
Mass fraction of ash (%)	To be reported	0.01	---	0.01

The Notified Body may accept tests carried out on the basis of other tests fuel as specified in a harmonised standard.

3. DURABILITY

The manufacturer of the engine shall supply engine installation and maintenance instructions, which if applied should mean that the engine in normal use will continue to comply with the limits set out in point 2.5. throughout the normal life of the engine and under normal conditions of use.

This information shall be obtained by the engine manufacturer by use of prior endurance testing, based on normal operating cycles, and by calculation of component fatigue so that the necessary maintenance instructions may be prepared by the manufacturer and issued with all new engines when first placed on the market.

The normal life of the engine is considered to be the following:

- (a) For CI engines 480 hours of operation or 10 years, whichever occurs first;
- (b) For SI inboard or stern drive engines with or without integral exhaust:
 - (i) below 373 kW: 480 hours of operation or 10 years, whichever occurs first,
 - (ii) for engines in the category $373 < PN \cdot 485$ kW: 150 hours of operation or 3 years, whichever occurs first,
 - (iii) for the engine category $PN > 485$ kW: 50 hours of operation or 1 year, whichever occurs first;
- (c) personal watercraft engines: 350 hours or five years, whichever occurs first;
- (d) outboard engines: 350 hours or 10 years, whichever occurs first

4. OWNER'S MANUAL

Each engine shall be provided with an owner's manual in the language or languages of the Union determined by the Member State in which the engine is to be marketed.

The owner's manual shall:

- (a) provide instructions for the installation and maintenance needed to assure the proper functioning of the engine to meet the requirements of point 3., (Durability);
- (b) specify the power of the engine when measured in accordance with the harmonised standard.

C. Essential requirements for noise emissions

Recreational craft with inboard or stern drive engines without integral exhaust, personal watercraft and outboard engines and stern drive engines with integral exhaust shall comply with the essential requirements for noise emissions set out in this Part.

1. NOISE EMISSION LEVELS

- 1.1. Recreational craft with inboard or stern drive engines without integral exhaust, personal watercraft and outboard engines and stern drive engines with integral exhaust shall be designed, constructed and assembled so that noise emissions⁷ shall not exceed the limit values in the following table:

Table	
Rated Engine Power (single engine) In kW	Maximum Sound Pressure Level = L_{pASmax} In dB
$P_N \leq 10$	67
$10 < P_N \leq 40$	72
$P_N > 40$	75

where P_N = rated engine power in kW of a single engine at rated speed and L_{pASmax} = maximum sound pressure level in dB.

For twin-engine and multiple-engine units of all engine types an allowance of 3 dB may be applied.

- 1.2. As an alternative to sound measurement tests, recreational craft with inboard engine configuration or stern drive engine configuration, without integral exhaust, shall be deemed to comply with the noise requirements set out in point 1.1. if they have a Froude number of $\geq 1,1$ and a power displacement ratio of ≥ 40 and where the engine and exhaust system are installed in accordance with the engine manufacturer's specifications.
- 1.3. "Froude number" shall be calculated by dividing the maximum boat speed V (m/s) by the square root of the waterline length lwl (m) multiplied by a given gravitational constant, ($g = 9,8 \text{ m/s}^2$)

$$Fn = \frac{V}{\sqrt{(g.lwl)}}$$

“Power displacement ratio” P/D shall be calculated by dividing the rated engine power P_N (in kW) by the craft’s displacement D (in tonnes) $\equiv \frac{P}{D}$

2. OWNER’S MANUAL

For recreational craft with inboard engine or stern drive engines without integral exhaust and personal watercraft, the owner's manual required under point 2.5. of Part A of Annex I, shall include information necessary to maintain the craft and exhaust system in a condition that, insofar as is practicable, will ensure compliance with the specified noise limit values when in normal use.

For outboard engines and stern drive engines with integral exhaust, the owner's manual required under point 4 of Part B of Annex I shall provide the instructions necessary to maintain the engine in a condition, that insofar as is practicable, will ensure compliance with the specified noise limit values when in normal use.

3. DURABILITY

The provisions on the durability in Section 3 of Part B shall apply *mutandis mutatis* to the compliance with the requirements on noise emissions set out in [...].

ANNEX II

COMPONENTS of watercraft

- (1) Ignition-protected equipment for inboard and stern drive petrol engines and petrol tank spaces;
- (2) Start-in-gear protection devices for outboard engines;
- (3) Steering wheels, steering mechanisms and cable assemblies;
- (4) Fuel tanks intended for fixed installations and fuel hoses;
- (5) Prefabricated hatches and port lights.

ANNEX III

DECLARATION BY THE MANUFACTURER OR HIS AUTHORISED REPRESENTATIVE ESTABLISHED IN THE UNION OR THE PERSON RESPONSIBLE FOR PLACING ON THE MARKET THE PARTLY COMPLETED WATERCRAFT OR COMPONENT

(Article 6 (2) and (3))

- A. The declaration by the manufacture or his authorised representative established in the Union referred to in Article 6(2) shall contain the following:
- (a) the name and address of the manufacturer;
 - (b) the name and address of the representative of the manufacturer established in the Union or, if appropriate, of the person responsible for the placing on the market;
 - (c) a description of the partly completed watercraft;
 - (d) a statement that the partly completed watercraft complies with the essential requirements that apply this stage of construction; this shall include references to the relevant harmonised standards used, or references to the specifications in relation to which compliance is declared at this stage of construction; furthermore, it is intended to be completed by other legal or natural persons in full compliance with this Directive.
- B. The declaration by the manufacture, his authorised representative established in the Union or the person responsible for placing on the market referred to in Article 6(3) shall contain the following:
- (a) the name and address of the manufacturer;
 - (b) the name and address of the representative of the manufacturer established in the Union or, if appropriate, of the person responsible for the placing on the market;
 - (c) a description of the component;
 - (d) a statement that the component complies with the relevant essential requirements.

ANNEX IV

EU DECLARATION OF CONFORMITY

1. No xxxxxx (unique identification of the product: type, serial number where appropriate):
2. Name and address of the manufacturer or his authorised representative [The authorised representative must also give the business name and address of the manufacturer] or the private importer.
3. This declaration of conformity is issued under the sole responsibility of the manufacturer or the private importer or the person referred to in Article 20(3) or (4) of Directive [...]
4. Object of the declaration (identification of product allowing traceability. It may include a photograph, where appropriate):
5. The object of the declaration described in [...] is in conformity with the relevant Union harmonisation legislation:
6. References to the relevant harmonised standards used or references to the specifications in relation to which conformity is declared:
7. Where applicable, the notified body ... (name, number)... performed ... (description of intervention) ... and issued the certificate:
8. Identification of the person empowered to sign on behalf of the manufacturer or his authorised representative established within the Union
9. Additional information:

The declaration of conformity shall include a statement of the manufacturer that the engine will meet the exhaust and noise emission requirements of this Directive, when installed in a watercraft, in accordance with the manufacturer's supplied instructions and that that engine must not be put into service until the watercraft into which it is to be installed has been declared in conformity, if so required, with the relevant provision of the Directive, with regard to all of the following:

- (a) inboard engines and stern drive propulsion engines without integral exhaust;
- (b) engines type-approved according to Directive 97/68/EC which are in compliance with stage II provided for in point 4.2.3 of Annex I of the latter Directive;
- (c) engines type-approved according to Directive 88/77/EEC.

If the engine has been placed on the market under the additional transitional period provided in Article 58 (2), the EU declaration of conformity shall contain an indication thereof.

Signed for and on behalf of:

(place and date of issue)

(name, function) (signature)

ANNEX V

EQUIVALENT CONFORMITY BASED ON POST-CONSTRUCTION ASSESSMENT

(module PCA)

1. Conformity based on post-construction assessment is the procedure to assess the equivalent conformity of a product for which neither the manufacturer nor his authorised representative has assumed the responsibility for the product's conformity with the Directive, and whereby a natural or legal person referred to in Article 20(2), (3) or (4) who is placing the product on the market or putting it into service under his own responsibility is assuming the responsibility for the equivalent conformity of this product. This person shall fulfill the obligations laid down in points 2 and 4 and ensure and declare on his sole responsibility that the product concerned, which has been subject to the provisions of point 3, is in conformity with the applicable requirements of this Directive.

2. The person who is placing the product on the market or putting it into service shall lodge an application for a post-construction assessment of the product with a notified body and must provide the notified body with the documents and technical file enabling the Notified body to assess the conformity of the product with the requirements of this Directive and any available information on the use of the product after its first putting into service.

The person who is placing such a product on the market or putting it into service shall keep these documents and information at the disposal of the relevant national authorities for 10 years after the product has been assessed on its equivalent conformity in accordance with the post-construction assessment procedure.

3. The notified body shall examine the individual product and carry out calculations, tests and other assessments, to the extent necessary to ensure that the equivalent conformity of the product with the relevant requirements of this Directive is demonstrated.

The notified body shall draw up and issue a certificate and a related report of conformity concerning the assessment carried and shall keep a copy of the certificate and related report of conformity at the disposal of the national authorities for 10 years after it has issued these documents.

The notified body shall affix its identification number next to the conformity marking on the approved product or have it affixed under its responsibility.

In case the assessed product is a watercraft, the notified body shall also have affixed, under his responsibility, the watercraft identification code as referred to in point 2.1 of Part A of Annex I, whereby the field for the country of manufacture shall be used to indicate the country of establishment of the notified body and the fields for the manufacturer's identification code to indicate the post-construction assessment identification code assigned to the notified body, followed by the serial number of the post-construction assessment certificate. The fields in the watercraft

identification code for the month and year of production and for the model year shall be used to indicate the month and year of the post-construction assessment.

4. Conformity marking and declaration of conformity
 - 4.1. The person who is placing the product on the market or putting it into service shall affix the CE marking and, under the responsibility of the notified body referred to in Section 3, the latter's identification number to the product for which the notified body has assessed and certified its equivalent conformity with the relevant requirements of the Directive.
 - 4.2. The person who is placing the product on the market or putting it into service shall draw up an EU declaration of conformity and keep it at the disposal of the national authorities for 10 years after the date the post-construction assessment certificate has been issued. The declaration of conformity shall identify the product for which it has been drawn up.

A copy of the declaration of conformity shall be made available to the relevant authorities upon request.

- 4.3. In the case the assessed product is a watercraft, the person who is placing the watercraft on the market or putting it into service shall affix to the watercraft the builder's plate described in point 2.2 of Part A of Annex I, which shall include the words "post-construction assessment", and the watercraft identification number described in point 2.1 of Part A of Annex I, in accordance with the provisions set out in point 3.
5. The notified body shall inform the person who is placing the product on the market or putting it into service of his obligations under this post-construction assessment procedure.

ANNEX VI

SUPPLEMENTARY REQUIREMENTS WHEN INTERNAL PRODUCTION CONTROL PLUS SUPERVISED PRODUCTION TESTS SET IN MODULE A1 IS USED (ARTICLE 25(2))

Design and construction

On one or several watercrafts 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:

- (a) test of stability according to point 3.2 of Part A of Annex I;
- (b) test of buoyancy characteristics according to point 3.3 of Part A of Annex I.

Noise emissions

For recreational craft fitted with inboard or stern drive engines without integral exhaust and for personal watercraft, on one or several watercraft representing the production of the watercraft manufacturer, the sound emission tests defined in Part C of Annex I shall be carried out by the watercraft manufacturer, or on his behalf, under the responsibility of a notified body chosen by the manufacturer.

For outboard engines and stern drive engines with integral exhaust, on one or several engines of each engine family representing the production of the engine manufacturer, the sound emission tests defined in Part C of Annex I shall be carried out by the engine manufacturer, or on his behalf, under the responsibility of a notified body chosen by the manufacturer.

Where more than one engine of an engine family is tested, the statistical method described in Annex VII shall be applied to ensure conformity of the sample.

ANNEX VII

CONFORMITY OF PRODUCTION ASSESSMENT FOR EXHAUST AND NOISE EMISSIONS

1. For verifying the conformity of an engine family, a sample of engines shall be taken from the series. The manufacturer shall decide the size (n) of the sample, in agreement with the notified body.
2. The arithmetical mean X of the results obtained from the sample shall be calculated for each regulated component of the exhaust and noise emission. The production of the series shall be deemed to conform to the requirements ("pass decision") if the following condition is met:

$$X + k \cdot S \leq L$$

S is standard deviation, where:

$$S^2 = \Sigma (x - X)^2 / (n - 1)$$

X = the arithmetical mean of the results

x = the individual results of the sample

L = the appropriate limit value

n = the number of engines in the sample

k = statistical factor depending on n (see table)

n	2	3	4	5	6	7	8	9	10
k	0,973	0,613	0,489	0,421	0,376	0,342	0,317	0,296	0,279
n	11	12	13	14	15	16	17	18	19
k	0,265	0,253	0,242	0,233	0,224	0,216	0,210	0,203	0,198

If $n \geq 20$ then $k = 0,860 / \sqrt{n}$.

ANNEX VIII

SUPPLEMENTARY PROCEDURE TO BE APPLIED UNDER CONFORMITY TO TYPE BASED ON INTERNAL PRODUCTION CONTROL (MODULE C)

In the cases referred to in Article 25(5) when the quality level appears unsatisfactory, the following procedure shall apply:

An engine is taken from the series and subjected to the test described in Part B of Annex I. Test engines shall have been run in, partially or completely, according to the manufacturer's specifications. If the specific exhaust emissions of the engine taken from the series exceed the limit values according to Part B of Annex I, the manufacturer may ask for measurements to be done on a sample of engines taken from the series and including the engine originally taken. To ensure the conformity of the sample of engines defined in [...] with the requirements of the Directive, the statistical method described in Annex VII shall be applied.

ANNEX IX

TECHNICAL DOCUMENTATION

The documentation referred to in Articles 7(2) and 26 shall, as far as it is relevant for the assessment, contain the following:

- (a) A general description of the type;
- (b) Conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, and other relevant data.;
- (c) Descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the product;
- (d) A list of the standards referred to in Article 14, applied in full or in part, and descriptions of the solutions adopted to fulfil the essential requirements when the standards referred to in Article 14 have not been applied;
- (e) Results of design calculations made, examinations carried out and other relevant data;
- (f) Test reports, or calculations namely on stability according to point 3.2 of Part A of Annex I and on buoyancy according to point 3.3 of Part A of Annex I,
- (g) Exhaust emissions test reports demonstrating compliance with Section 2 of Part B of Annex I
- (h) Sound emissions test reports demonstrating compliance with Section 1 of Part C of Annex I.

LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS HAVING A BUDGETARY IMPACT EXCLUSIVELY LIMITED TO THE REVENUE SIDE

1. BUDGET LINES:

Chapter and Article:

Amount budgeted for the year concerned:

2. FINANCIAL IMPACT

X Proposal has no financial implications

.. Proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows:

(€million to one decimal place)

Budget line	Revenue ²⁶	12 month period, starting dd/mm/yyyy	[Year n]
Article 52	<i>Impact on own resources</i>		
Article ...	<i>Impact on own resources</i>		

Situation following action					
	[n+1]	[n+2]	[n+3]	[n+4]	[n+5]
Article ...					
Article ...					

²⁶ Regarding traditional own resources (agricultural duties, sugar levies, customs duties) the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % of collection costs