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REPORT

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To: Permanent Representatives Committee

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Subject: Proposal for a Directive of the European Parliament and of the Council amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC
– Analysis of the final compromise text with a view to agreement

CONTEXT AND CONTENT OF THE PROPOSAL

1. On 24 May 2018, the Commission transmitted the above-mentioned proposal to the European Parliament and to the Council.
2. The Commission proposes to amend Directive 2008/106/EC of the European Parliament and of the Council¹ and to repeal Directive 2005/45/EC of the European Parliament and of the Council².

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

² Directive 2005/45/EC of the European Parliament and of the Council of 7 September 2005 on the mutual recognition of seafarers' certificates issued by the Member States and amending Directive 2001/25/EC (OJ L 255, 30.9.2005, p. 160).

3. The stated objective is to simplify and streamline the existing EU regulatory framework on seafarers' training and certification in order to: 1) keep the EU rules aligned with the international framework (i.e. the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended – 'the STCW Convention'); 2) revamp the centralised mechanism for the recognition of third countries in order to increase its efficiency and effectiveness; and 3) increase legal clarity regarding the mutual recognition of seafarers' certificates issued by the Member States.

STATE OF PLAY

4. The Council agreed on a general approach on 3 December 2018.
5. The European Parliament Committee for Transport and Tourism (TRAN) appointed Mr Dominique Riquet (ALDE-France) as rapporteur on 5 July 2018. The draft report was issued on 29 October 2018. The TRAN Committee adopted its report on the proposal on 10 January 2019 and the plenary, on 14 January, approved the decision of the TRAN Committee to start negotiations.
6. The first trilogue took place on 29 January 2019.
7. On 8 February 2019, the Permanent Representatives Committee gave the Presidency a mandate to negotiate a first reading agreement with the Parliament.
8. The second trilogue took place on 11 February 2019.
9. At that trilogue, an agreement *ad referendum* was reached, the main elements of which are described below.

THE FINAL COMPROMISE TEXT

10. As an initial remark, the Presidency would like to underline the concessions made by the European Parliament in agreeing to most elements of the Council general approach. Of particular importance is the fact that the Parliament accepted the very delicate compromise which the Council had reached on the mutual recognition between Member States.
11. The Parliament could accept the compromise proposals in the mandate on, for example, compliance with the STCW Code with reference to fatigue and fitness for duty; advice and assistance to seafarers in case of appeal of a decision of non-recognition; the priority criteria to be used for the reassessment of the recognition of third countries; and digital format of certificates.
12. The Parliament insisted strongly on some points.
13. As regards the database mentioned in several amendments by the Parliament, there was a long discussion. In the end, the Parliament accepted a reference in a recital only (recital 9a) and with the formulation proposed in the mandate.
14. When it comes to the European Maritime Diplomas of Excellence, the Parliament could basically accept the compromise texts proposed. However, it pointed out that it seemed unnecessary to have both a "may" and "on voluntary basis" in the relevant recital 9c. Therefore, the words "on a voluntary basis" were deleted. In the Presidency's view, that should be acceptable, in particular since it is a recital.
15. As regards the reassessment procedure of third countries, the Parliament argued for eight years instead of the ten years proposed by the Commission and accepted by Council. In the end, the Parliament was convinced by the arguments brought forward by the Presidency, supported by the Commission, namely that there are enough safeguards in the Directive allowing for the Commission to reassess third countries earlier in case of indications of non-compliance with the requirements of the STCW Convention.
16. The final compromise proposed for the transposition time is 24 months, compared to 12 months proposed by the Commission and accepted by Parliament, and 36 months in the Council general approach.

17. The most difficult issue was the references to the Maritime Labour Convention (MLC). Here, the Parliament continued to request that this be made a condition for future recognition of third countries. In order to reach an agreement, the Presidency accepted a slight rewording of the relevant provision, Article 19(2). Instead of "give due regard" to the ratification of the MLC, the Commission shall "consider" that element in the recognition assessment procedure.
18. Finally, delegations should note that recital 4 on delegated acts has been reworded to reflect the provisions on delegated acts in the articles.
19. The Presidency considers that the agreement reached *ad referendum* with the European Parliament is very balanced and takes into account the concerns raised by Member States throughout the negotiations.

OTHER ISSUES

20. The United Kingdom maintains a parliamentary scrutiny reservation on the proposal.

CONCLUSION

21. In the light of the above, the Permanent Representatives Committee is invited to:
 - examine and approve the final compromise text in the Annex with a view to reaching an agreement at first reading with the European Parliament;
 - allow the Presidency to send a letter to the European Parliament stating that if the plenary of the European Parliament were to adopt, subject to revision of the text by the legal-linguist experts, the amended text of the draft Directive in the same form as set out in the Annex to this report, the Council would adopt the Directive in the form of the Commission proposal as thus amended by the Parliament.

2018/0162 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing
Directive 2005/45/EC

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular
Article 100(2) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee¹,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C , , p. .

Whereas:

- (1) In order to maintain, and aim to improve, a high level of maritime safety and pollution prevention at sea, it is essential to maintain and possibly improve the level of knowledge and skills of the Union seafarers by developing maritime training and certification in line with the international rules and technological progress, as well as to take further action to enhance the European maritime skills base.
- (2) The training and certification of seafarers is regulated at the international level by the International Maritime Organization Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (the 'STCW Convention') which was revised in 2010. Amendments to the STCW Convention were adopted in 2015 on the training and qualification requirements for seafarers working on board ships subject to the International Code of Safety for Ships using Gases or other Low-flashpoint Fuels (the 'IGF Code'). Also, in 2016, amendments to the STCW Convention were adopted in relation to training and qualification of seafarers working on board passenger ships and on board ships operating in polar waters.
 - (2a) The STCW Code already contains guidance on the prevention of fatigue (Section B-VIII/1) as well as on fitness for duty (Section A-VIII/1). In the interest of safety it is imperative that the requirements of Article 15 are enforced and followed without exception and that due account is taken of the guidance referred to.
- (3) Directive 2008/106/EC of the European Parliament and of the Council² incorporates the STCW Convention into Union law. All Member States are signatories to the STCW Convention and thus a harmonized implementation of their international commitments is to be achieved through the alignment of the Union rules on training and certification of seafarers with the STCW Convention. Therefore, several provisions of Directive 2008/106/EC should be amended in order to reflect the latest amendments to the STCW Convention regarding training and qualification of seafarers working on board ships falling under the IGF Code, on board passenger ships and on board ships operating in polar waters.

² Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers (OJ L 323, 3.12.2008, p. 33).

- (3a) It is one of the objectives of the common transport policy in the field of maritime transport to facilitate the movement of seafarers within the Union. Such movement contributes, among other things, to making the Union maritime transport sector attractive to future generations to avoid the European maritime cluster encountering a shortage of competent staff with the right mix of skills and competencies. The mutual recognition of seafarers' certificates issued by Member States is an essential element necessary to facilitate the movement of seafarers. In the light of the right to good administration, Member States' decisions in respect of acceptance of certificates of proficiency issued to seafarers by other Member States for the purposes of issuing national certificates of competency should be based on reasons ascertainable by the seafarer concerned.
- (4) In order to take account of developments at international level and to ensure the timely adaptation of the Union rules to such developments, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of incorporating amendments to the STCW Convention and Part A of the STCW Code by updating the technical requirements on training and certification of seafarers and by aligning all the relevant provisions of this Directive in relation to the digital certificates for seafarers. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making³. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts have systematically access to meetings of Commission expert groups dealing with the preparation of delegated acts.

³ OJ L 123, 12.5.2016, p. 10.

- (5) Directive 2008/106/EC also contains a centralised mechanism for the recognition of seafarers' certificates issued by third countries. The Regulatory Fitness Programme (REFIT) evaluation⁴ showed that significant cost savings for the Member States were achieved since the introduction of the centralised mechanism. However, the evaluation also revealed that, with regard to some of the recognised third countries, only a very limited number of endorsements attesting to the recognition of certificates were issued by Member States in relation to certificates of competency or certificates of proficiency issued by those third countries. Therefore, in order to use the available human and financial resources in a more efficient way, the procedure for the recognition of third countries should be based on an analysis of the need for such recognition, including but not limited to an indication of the estimated number of masters, officers and radio operators originating from that country who are likely to be employed in Union vessels, to be submitted for examination to the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS).
- (6) In view of the experience gained in applying the procedure of recognition of third countries, the REFIT evaluation revealed that the current time-frame of 18 months does not take into account the complexity of the process which includes an on field inspection conducted by the European Maritime Safety Agency. The necessary diplomatic arrangements to plan and carry out such an inspection require more time. Furthermore, the 18 months period is not sufficient where the third country has to implement corrective actions and undertake legal changes in its system in order to comply with the requirements of the STCW Convention. On those grounds, the deadline for the adoption of a Commission decision should be extended from 18 to 24 months and, where considerable corrective actions, including amendments to legal provisions, have to be implemented by the third country, the deadline should be further extended to 36 months. In addition, the possibility for the requesting Member State to provisionally recognise the third country's system for standards of training, certification and watchkeeping for seafarers should be kept in order to maintain the flexibility of the recognition procedure.
- (6a) In order to ensure the right of all seafarers to decent employment and to limit distortions of competition in the internal market, future recognition of third countries should consider whether they have ratified the Maritime Labour Convention, 2006.

⁴ SWD(2018) 19.

- (7) In order to further increase the efficiency of the centralised system for the recognition of third countries, the reassessment of third countries which provide low number of seafarers in the Union fleet should be performed in longer intervals which should be increased to ten years. However, this longer period of reassessment of the system of such third countries should be combined with priority criteria which take into account safety concerns, balancing the need for efficiency with an effective safeguard mechanism in case of deterioration of the quality of seafarers' training provided in the relevant third countries.
- (8) Information on the seafarers employed from third countries has become available at Union level through the communication by the Member States of the relevant information kept in their national registers regarding issued certificates and endorsements. This information should be used for statistical and policy-making purposes, in particular for the purpose of improving the efficiency of the centralised system for the recognition of third countries. Based on the information communicated by the Member States, the recognition of third countries which have not provided the Union fleet with seafarers for a period of at least eight years should be re-examined. The re-examination process should cover the possibility of retaining or withdrawing the recognition of the relevant third country, in accordance with the examination procedure. In addition, this information should also be used in order to prioritise the reassessment of the recognised third countries.

(9) The provisions for recognition of professional qualifications set out in Directive 2005/36/EC of the European Parliament and of the Council⁵ are not applicable with regard to the recognition of certificates of seafarers under Directive 2008/106/EC. Directive 2005/45/EC of the European Parliament and of the Council⁶ regulated the mutual recognition of seafarers' certificates issued by the Member States. However, the definitions of seafarers' certificates referred to in Directive 2005/45/EC have become obsolete following the 2010 amendments to the STCW Convention. Therefore the mutual recognition scheme of seafarers' certificates issued by Member States should be amended in order to reflect the international amendments and the new definitions of seafarers certificates included in Directive 2008/106/EC. In addition, the seafarers' medical certificates issued under the authority of Member States should also be included in the mutual recognition scheme. In order to remove ambiguity and the risk of inconsistencies between Directive 2005/45/EC and Directive 2008/106/EC, the mutual recognition of seafarers' certificates should be regulated only by Directive 2008/106/EC. Furthermore, in order to reduce the administrative burden on the Member States, an electronic system for the presentation of seafarers' qualifications should be introduced when relevant amendments to the STCW Convention have been adopted.

⁵ Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications (OJ L 255, 30.9.2005, p. 22).

⁶ Directive 2005/45/EC of the European Parliament and of the Council on the mutual recognition of seafarers' certificates issued by the Member States and amending Directive 2001/25/EC (OJ L 255, 30.9.2005, p. 160).

- (9a) Digitalisation of data is part and parcel of technological progress in the area of data collection and communication with a view to helping to bring down costs and making efficient use of human resources. The Commission should consider measures in order to enhance the effectiveness of port State control, including, amongst others, an evaluation of the feasibility and added value of setting up and managing a central database of seafarers' certificates which would be interconnected with the inspection database referred to in Article 24 of Directive 2009/16/EC of the European Parliament and of the Council⁷, and to which all Member States would be connected, containing all the information referred to in Annex V to this Directive on certificates of competency and endorsements attesting the recognition of certificates of proficiency issued in accordance with Regulations V/1-1 and V/1-2 of the STCW Convention.
- (9b) The education of European seafarers as masters and officers should be supported by exchanges of students between Maritime Education and Training Institutions across the Union. In order to cultivate and develop the skills and qualifications of seafarers under a European flag, an exchange of good practices between Member States is necessary. The training of seafarers should fully benefit from the opportunities provided by Erasmus +.
- (9c) The Commission should establish a dialogue with the social partners and Member States to develop maritime training initiatives additional to the internationally agreed minimum level of training of seafarers, and which may be mutually recognised by Member States as European Maritime Diplomas of Excellence. These initiatives should build upon, and be developed in line with, the recommendations of the ongoing pilot projects and strategies set in the Blueprint for Sectoral Cooperation on Skills.
- (10) In order to increase legal clarity and consistency, Directive 2005/45/EC should be repealed.
- (10a) Directive 2008/106/EC should be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

⁷ Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).

Article 1

Amendments to Directive 2008/106/EC

Directive 2008/106/EC is amended as follows:

(1) In Article 1, the following points are added:

"43. 'host Member State' means the Member State in which seafarers seek acceptance or recognition of their certificates of competency, certificates of proficiency or documentary evidence;

44. 'IGF Code' means the International Code of Safety for Ships using Gases or other Low-flashpoint Fuels, as defined in SOLAS regulation II-1/2.29;

45. 'Polar Code' means the International Code for Ships Operating in Polar Waters, as defined in SOLAS regulation XIV/1.1;

46. 'Polar waters' means Arctic waters and/or the Antarctic area, as defined in SOLAS regulations XIV/1.2 to XIV/1.4."

(2) Article 2 is amended as follows:

(a) the first sub-paragraph is amended as follows:

"1. This Directive shall apply to the seafarers mentioned in this Directive serving on board seagoing ships flying the flag of a Member State with the exception of:"

(b) the following paragraph 2 is added:

"2. Article 5b shall apply to seafarers who hold a certificate issued by a Member State, regardless of their nationality."

(a) [...]

(b) [...]

(2a) In Article 5, paragraph 10 is replaced by the following:

‘10. Subject to Article 19(7) any certificate required by this Directive shall be kept available in its original form on board the ship on which the holder is serving, in hard copy or in digital format, the authenticity and validity of which may be verified under the procedure laid down in point (b) of paragraph 12 and paragraph 13 of this Article.’

(2b) In Article 5, paragraph 13 is replaced by the following:

When relevant amendments to the STCW Convention and Part A of the STCW Code in relation to digital certificates for seafarers come into force, the Commission shall be empowered to adopt delegated acts in accordance with Article 27a in order to align all the relevant provisions of this Directive with those amendments in order to digitalise the seafarers' certificates and endorsements.

(3) Article 5a is replaced by the following:

"Article 5a

Information to the Commission

For the purposes of Article 20(8), Article 21(2) and exclusively for use by the Member States and the Commission in policy-making and for statistical purposes, Member States shall submit to the Commission, on a yearly basis, the information listed in Annex V to this Directive on certificates of competency and endorsements attesting the recognition of certificates of competency. They may also provide, on a voluntary basis, information on certificates of proficiency issued to ratings in accordance with Chapters II, III and VII of the Annex to the STCW Convention, such as that listed in Annex V to this Directive."

(4) The following Article is inserted:

"Article 5b

Mutual recognition of seafarers' certificates issued by Member States

1. Every Member State shall accept certificates of proficiency and documentary evidence issued by another Member State, or under its authority, in hard copy or in digital format, for the purpose of allowing seafarers to serve on ships flying its flag.

2. Every Member State shall recognise certificates of competency issued by another Member State or certificates of proficiency issued by another Member State to masters and officers in accordance with Regulations V/1-1 and V/1-2 of Annex I to this Directive, by endorsing that certificate to attest its recognition. The endorsement attesting the recognition shall be limited to the capacities, functions and levels of competency or proficiency prescribed therein. The endorsement shall only be issued if all requirements of the STCW Convention have been complied with, in accordance with paragraph 7 of Regulation I/2 of the STCW Convention. The form of the endorsement used shall be that set out in paragraph 3 of Section A-I/2 of the STCW Code.
3. Every Member State shall accept, for the purpose of allowing seafarers to serve on ships flying its flag, medical certificates issued under the authority of another Member State in accordance with Article 11.
4. The host Member States shall ensure that the decisions referred to in paragraphs 1 to 3 be issued within a reasonable time. The host Member States shall also ensure that seafarers have the right to appeal against any refusal to endorse or accept a valid certificate, or the absence of any response, in accordance with national legislation and procedures and that seafarers be provided with adequate advice and assistance regarding such appeals in accordance with established national legislation and procedures.
5. Without prejudice to paragraph 2, the competent authorities of a host Member State may impose further limitations on capacities, functions and levels of competence or proficiency relating to near-coastal voyages, as referred to in Article 7, or alternative certificates issued under Regulation VII/1 of Annex I.
6. Without prejudice to paragraph 2, a host Member State may, where necessary, allow a seafarer to serve, for a period not exceeding three months on board a ship flying its flag, while holding an appropriate and valid certificate issued and endorsed by another Member State, but not yet endorsed for recognition by the host Member State concerned.

Documentary proof that an application for endorsement has been submitted to the competent authorities shall be readily available.

7. A host Member State shall ensure that seafarers who present for recognition certificates for functions at the management level have an appropriate knowledge of the maritime legislation of that Member State relevant to the functions they are permitted to perform."

(5) Article 12 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. Every master, officer and radio operator holding a certificate issued or recognised under any chapter of Annex I other than Regulation V/3 of Chapter V or Chapter VI, who is serving at sea or intends to return to sea after a period ashore, shall, in order to continue to qualify for seagoing service, be required at intervals not exceeding five years:

(a) to meet the standards of medical fitness prescribed by Article 11; and

(b) to establish continued professional competence in accordance with section A-I/11 of the STCW Code."

(b) the following paragraph is inserted:

"2b. Every master or officer shall, for continuing seagoing service on board ships operating in polar waters, meet the requirements of paragraph 1 of this Article and be required, at intervals not exceeding five years, to establish continued professional competence for ships operating in polar waters in accordance with Section A-I/11, paragraph 4 of the STCW Code."

(c) paragraph 3 is replaced by the following:

"3. Each Member State shall compare the standards of competence which are required of candidates for certificates of competency and/or certificates of proficiency issued until 1 January 2017 with those specified for the relevant certificate of competency and/or proficiency in Part A of the STCW Code, and shall determine the need to require the holders of such certificates of competency and/or certificates of proficiency to undergo appropriate refresher and updating training or assessment."

(d) the following paragraph is inserted:

"3a. Every Member State shall compare the standards of competence which it required of persons serving on gas-fuelled ships before 1 January 2017 with the standards of competence in Section A-V/3 of the STCW Code, and shall determine the need, if any, for requiring these personnel to update their qualifications."

(6) In Article 19, paragraphs 2 and 3 are replaced by the following:

"2. A Member State which intends to recognise, by endorsement, the certificates of competency or the certificates of proficiency referred to in paragraph 1 of this Article issued by a third country to a master, officer or radio operator, for service on ships flying its flag, shall submit a request to the Commission for the recognition of that third country, accompanied by a preliminary analysis of the third country's compliance with the requirements of the STCW Convention by collecting the information referred to in Annex II to this Directive. In the preliminary analysis, further information on the reasons for recognition of the third country shall be conveyed by the Member State in support of its request.

Following the submission of the request by a Member State, the Commission shall process without delay the request provided by the requesting Member State and shall decide, in accordance with the examination procedure referred to in Article 28(2), on the initiation of the assessment of the training and certification system in the third country within a reasonable time with due regard to the time limit set out in paragraph 3.

When a positive decision for initiating the assessment procedure has been adopted, the Commission, assisted by the European Maritime Safety Agency and with the possible involvement of the Member State submitting the request and any other interested Member States, shall collect the information referred to in Annex II to this Directive and shall carry out an assessment of the training and certification systems in the third country for which the request for recognition was submitted, in order to verify that the country concerned meets all the requirements of the STCW Convention, that appropriate measures have been taken to prevent issuance of fraudulent certificates, and consider whether it has ratified the Maritime Labour Convention, 2006.

3. Where, as a result of that assessment, the Commission concludes that all those requirements are fulfilled, it shall adopt the decision on the recognition of a third country by means of an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 28(2), within 24 months from the submission of the request by a Member State referred to in paragraph 2 of this Article.

In case the third country concerned needs to implement major corrective actions, including amendments to its legislation, its education, training and certification system in order to meet the requirements of the STCW Convention, the implementing acts referred to in the first subparagraph shall be adopted within 36 months from the submission of the request by a Member State referred to in paragraph 2 of this Article.

The Member State submitting the request may decide to recognise the third country unilaterally until an implementing act is adopted pursuant to this paragraph. In case of such a unilateral recognition, the Member State shall communicate to the Commission the number of endorsements attesting recognition issued in relation to certificates of competency and certificates of proficiency referred to in paragraph 1, issued by the third country until the implementing act regarding its recognition is adopted."

(7) In Article 20, the following paragraph is added:

"8. If there are no endorsements attesting recognition issued by a Member State in relation to certificates of competency or certificates of proficiency, referred to in Article 19(1), issued by a third country for a period of more than eight years, the recognition of that country's certificates shall be re-examined. That decision to re-examine shall be taken by the Commission by means of an implementing act. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2), after notifying the Member States as well as the third country concerned at least six months in advance."

(8) In Article 21, paragraphs 1 and 2 are replaced by the following:

"1. The third countries that have been recognized under the procedure referred to in the first subparagraph of Article 19(3), including those referred to in Article 19(6), shall be reassessed by the Commission, with the assistance of the European Maritime Safety Agency, on a regular basis and at least within ten years of the last assessment, to verify that they fulfil the relevant criteria set out in Annex II and whether the appropriate measures have been taken to prevent issuance of fraudulent certificates.

2. The Commission, with the assistance of the European Maritime Safety Agency, shall carry out the reassessment of the third countries based on priority criteria. Those priority criteria shall include the following:

(a) performance data by the port state control pursuant to Article 23;

(b) the number of endorsements attesting recognition issued in relation to certificates of competency or certificates of proficiency, issued in accordance with Regulations V/1-1 and V/1-2 of the STCW Convention, issued by the third country;

(c) the number of Maritime Education and Training institutions accredited by the third country;

(d) the number of seafarers' training and professional development programs approved by the third country;

(e) the date of last assessment and the number of deficiencies in critical processes identified during the last Commission's assessment;

(f) any significant change in the maritime training and certification system of a third country;

(fa) the overall numbers of seafarers certified by the third country, serving on ships flying the flags of Member States and the level of training and qualifications of those seafarers;

(fb) information concerning education and training standards in that third country provided by any concerned authorities or other stakeholders, if available.

In case of non-compliance of a third country with the requirements of the STCW Convention in accordance with Article 20, the re-assessment of the relevant country shall take priority in relation to the other third countries."

(9) In Article 25a, paragraph 1 is replaced by the following:

"1. The Member States shall communicate the information referred to in Annex V to the Commission for the purposes of Article 20(8), Article 21(2) and for use by the Member States and the Commission in policy-making."

(9a) Article 26 is replaced by the following:

"Article 26

Report

No later than ... [insert date five years after entry into force of this amending Directive] the Commission shall submit to the European Parliament and to the Council an evaluation report, including suggestions for follow up actions to be taken in the light of that evaluation. In the report, the Commission shall analyse the implementation of the mutual recognition scheme of seafarers' certificates issued by Member States, and any developments regarding digital certificates for seafarers at international level. Also, the Commission shall evaluate any developments regarding a future consideration of the European Maritime Diplomas of Excellence, as underpinned by the recommendations provided by the social partners."

(10) Article 27 is replaced by the following:

"Article 27

Amendment

1. The Commission is empowered to adopt delegated acts in accordance with Article 27a amending Annex V to this Directive with respect to specific and relevant content and details of the information that needs to be reported by Member States provided that such acts are limited to taking into account the amendments to the STCW Convention and Part A of the STCW Code and respect the safeguards on data protection. Such delegated acts shall not change the provisions of anonymisation of data as required by Article 25a(3).

2. The Commission is empowered to adopt delegated acts in accordance with Article 27a amending Annex I and the related provisions of this Directive in order to align them with new amendments to the STCW Convention and Part A of the STCW Code."

(11) Article 27a is replaced by the following:

"Article 27a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 5(13) and Article 27 shall be conferred on the Commission for a period of five years from ... [*date of entry into force of this amending Directive*]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 5(13) and Article 27 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 5(13) and Article 27 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council."

(12) Annex I is amended in accordance with the Annex to this Directive.

Article 2

Repeal

Directive 2005/45/EC is repealed.

Article 3

Transposition

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ... [24 months after the entry into force of this amending Directive]. They shall immediately inform the Commission thereof.

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

Article 4

Entry into force

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

Article 5

Addressees

This Directive is addressed to the Member States.

Done at ...

For the European Parliament
The President

For the Council
The President

NEW TRAINING REQUIREMENTS

(as referred to in Article 1)

Annex I to Directive 2008/106/EC is amended as follows:

(1) Regulation V/2 of Annex I, Chapter V, is replaced by the following:

"Regulation V/2

Mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on passenger ships

1. This regulation applies to masters, officers, ratings and other personnel serving on board passenger ships engaged on international voyages. Member States shall determine the applicability of these requirements to personnel serving on passenger ships engaged on domestic voyages.
2. Before being assigned shipboard duties, all persons serving on a passenger ship shall meet the requirements of section A-VI/1, paragraph 1 of the STCW Code.
3. Masters, officers, ratings and other personnel serving on board passenger ships shall complete the training and familiarization required by paragraphs 5 to 9 below, in accordance with their capacity, duties and responsibilities.
4. Masters, officers, ratings and other personnel, who are required to be trained in accordance with paragraphs 7 to 9 below shall, at intervals not exceeding five years, undertake appropriate refresher training or be required to provide evidence of having achieved the required standard of competence within the previous five years.
5. Personnel serving on board passenger ships shall complete passenger ship emergency familiarization appropriate to their capacity, duties and responsibilities as specified in section A-V/2, paragraph 1 of the STCW Code.

6. Personnel providing direct service to passengers in passenger spaces on board passenger ships shall complete the safety training specified in section A-V/2, paragraph 2 of the STCW Code.
7. Masters, officers, ratings qualified in accordance with chapters II, III and VII and other personnel designated on the muster list to assist passengers in emergency situations on board passenger ships, shall complete passenger ship crowd management training as specified in section A-V/2, paragraph 3 of the STCW Code.
8. Masters, chief engineer officers, chief mates, second engineer officers and any person designated on the muster list of having responsibility for the safety of passengers in emergency situations on board passenger ships shall complete approved training in crisis management and human behaviour as specified in section A-V/2, paragraph 4 of the STCW Code.
9. Masters, chief engineer officers, chief mates, second engineer officers and every person assigned immediate responsibility for embarking and disembarking passengers, for loading, discharging or securing cargo, or for closing hull openings on board ro-ro passenger ships, shall complete approved training in passenger safety, cargo safety and hull integrity as specified in section A-V/2, paragraph 5 of the STCW Code.
10. Member States shall ensure that documentary evidence of the training which has been completed is issued to every person found qualified in accordance with paragraphs 6 to 9 of this regulation. "

(2) In Annex I, Chapter V, the following Regulation V/3 is added:

"Regulation V/3

Mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on ships subject to the IGF Code

1. This regulation applies to masters, officers and ratings and other personnel serving on board ships subject to the IGF Code.
2. Prior to being assigned shipboard duties on board ships subject to the IGF Code, seafarers shall have completed the training required by paragraphs 4 to 9 below in accordance with their capacity, duties and responsibilities.
3. All seafarers serving on board ships subject to the IGF Code shall, prior to being assigned shipboard duties, receive appropriate ship and equipment specific familiarization as specified in Article 14 paragraph 1(d) of this Directive.
4. Seafarers responsible for designated safety duties associated with the care, use or in emergency response to the fuel on board ships subject to the IGF Code shall hold a certificate in basic training for service on ships subject to the IGF Code.
5. Every candidate for a certificate in basic training for service on ships subject to the IGF Code shall have completed basic training in accordance with provisions of Section A-V/3, paragraph 1 of the STCW Code.
6. Seafarers responsible for designated safety duties associated with the care, use or in emergency response to the fuel on board ships subject to the IGF Code who have been qualified and certified according to Regulation V/1-2, paragraphs 2 and 5, or Regulation V/1-2, paragraphs 4 and 5 on liquefied gas tankers, shall be considered to have met the requirements specified in Section A-V/3, paragraph 1 of the STCW Code for basic training for service on ships subject to the IGF Code.
7. Masters, engineer officers and all personnel with immediate responsibility for the care and use of fuels and fuel systems on ships subject to the IGF Code shall hold a certificate in advanced training for service on ships subject to the IGF Code.

8. Every candidate for a certificate in advanced training for service on ships subject to the IGF Code shall, while holding the Certificate of Proficiency described in paragraph 4, have:

8.1 completed approved advanced training for service on ships subject to the IGF Code and meet the standard of competence as specified in Section A-V/3, paragraph 2 of the STCW Code; and

8.2 completed at least one month of approved seagoing service that includes a minimum of three bunkering operations on board ships subject to the IGF Code. Two of the three bunkering operations may be replaced by approved simulator training on bunkering operations as part of the training in paragraph 8.1 above.

9. Masters, engineer officers and any person with immediate responsibility for the care and use of fuels on ships subject to the IGF Code who have been qualified and certified according to the standards of competence specified in Section A-V/1-2, paragraph 2 of the STCW Code for service on liquefied gas tankers shall be considered to have met the requirements specified in Section A-V/3, paragraph 2 of the STCW Code for advanced training for ships subject to the IGF Code, provided they have also:

9.1 met the requirements of paragraph 6; and

9.2 met the bunkering requirements of paragraph 8.2 or have participated in conducting three cargo operations on board the liquefied gas tanker; and

9.3 completed sea going service of three months in the previous five years on board:

9.3.1 ships subject to the IGF Code;

9.3.2 tankers carrying as cargo, fuels covered by the IGF Code; or

9.3.3 ships using gases or low flashpoint fuel as fuel.

10. Member States shall ensure that a Certificate of Proficiency is issued to seafarers, who are qualified in accordance with paragraphs 4 or 7, as appropriate.

11. Seafarers holding Certificates of Proficiency in accordance with paragraph 4 or 7 above shall, at intervals not exceeding five years, undertake appropriate refresher training or be required to provide evidence of having achieved the required standard of competence within the previous five years."

(3) In Annex I, Chapter V, the following Regulation V/4 is added:

"Regulation V/4

Mandatory minimum requirements for the training and qualifications of masters and deck officers
on ships operating in polar waters

1. Masters, chief mates and officers in charge of a navigational watch on ships operating in polar waters shall hold a certificate in basic training for ships operating in polar waters, as required by the Polar Code.
2. Every candidate for a certificate in basic training for ships operating in polar waters shall have completed an approved basic training for ships operating in polar waters and meet the standard of competence specified in section A-V/4, paragraph 1, of the STCW Code.
3. Masters and chief mates on ships operating in polar waters, shall hold a certificate in advanced training for ships operating in polar waters, as required by the Polar Code.
4. Every candidate for a certificate in advanced training for ships operating in polar waters shall:
 - 4.1 meet the requirements for certification in basic training for ships in polar waters;
 - 4.2 have at least two months of approved seagoing service in the deck department, at management level or while performing watchkeeping duties at the operational level, within polar waters or other equivalent approved seagoing service; and
 - 4.3 have completed approved advanced training for ships operating in polar waters and meet the standard of competence specified in section A-V/4, paragraph 2 of the STCW Code.
5. Member States shall ensure that a Certificate of Proficiency is issued to seafarers who are qualified in accordance with paragraphs 2 or 4, as appropriate.

6. Until 1 July 2020, seafarers who commenced approved seagoing service in polar waters prior to 1 July 2018 shall be able to establish that they meet the requirements of paragraph 2 by:

6.1 having completed approved seagoing service on board a ship that operates in polar waters or equivalent approved seagoing service, performing duties in the deck department at the operational or management level, for a period of at least three months in total during the preceding five years; or

6.2 having successfully completed a training course organised in accordance with the training guidance established by the Organization for ships operating in polar waters.

7. Until 1 July 2020, seafarers who commenced approved seagoing service in polar waters prior to 1 July 2018 shall be able to establish that they meet the requirements of paragraph 4 by:

7.1 having completed approved seagoing service on board a ship operating in polar waters or equivalent approved seagoing service, performing duties in the deck department at management level, for a period of at least three months in total during the preceding five years; or

7.2 having successfully completed a training course meeting the training guidance established by the International Maritime Organization for ships operating in polar waters and having completed approved seagoing service on board a ship operating in polar waters or equivalent approved seagoing service, performing duties in the deck department at the management level, for a period of at least two months in total during the preceding five years."
