

Summary of targeted consultation on the simplification of EU passenger ship safety legislation

The objective of this consultation targeted at members of the Passenger Ship Safety Expert Group was to support the Commission, assisted by the European Maritime Safety Agency, in the concrete formulation of the envisaged simplification proposals, particularly as regards the technical definitions and the clarity of the legal drafting. The results formed a basis for the discussions that took place during the meeting of the Passenger Ship Safety Expert Group, on 2 February 2016.

Consultation period

Given that the results and recommendations of the fitness check have been fully disseminated and the proposals were built primarily on the data collected during the REFIT fitness check process, the national administrations had 6 weeks to provide their replies. The deadline was set on 26 January 2016 to allow the Commission to process the results and inform the experts on 2 February 2016 on the outcome of the consultation and any issues that were raised for discussion.

Format and process followed

The questionnaire consisted of three main parts. Each one of the sections was dedicated to one Directive, therefore Part A contained all the questions relevant to Directive 98/41/EC, Part B addressed the proposed amendments regarding Directive 1999/35/EC and, finally, Part C followed the same pattern for Directive 2009/45/EC.

All the contributions were submitted through the online questionnaire, accessible via a link distributed to every Member State individually. As the working language of the Expert Group is English, the questionnaire was only available in English and, therefore, the same applies for the language of the present summary of the replies that have been received.

Results – EU Member States

Replies were provided in total by 20 countries, consisting in particular of 19 EU MS and Norway. More specifically, BE, CY, DE, DK, ES, FI, FR, IE, IT, LT, LV, MT, NL, PL, PT, SE and UK participated to the consultation and agreed to be referred to in the Staff Working Document under their identity as a contributing MS. Two MS objected and will be referred to in an anonymous form. Finally, Norway also provided its feedback; however, an overview of the replies provided by Norway will be reported under a separate heading. Their input has been assessed and taken into consideration, but it has not been included in the statistics that will be presented below. These have been limited to the feedback provided by the EU Member States.

The results are presented on a question by question basis, following the same order as in the questionnaire. The focus is on the presentation of the statistics, while the specific comments

and clarifications that several MS provided, as well as specific concerns, are addressed in the relevant parts of the Staff Working Document.

A. Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community:

Question 1 put forward the proposal for the clarification of the scope of Directive 98/41/EC, by aligning the definition of the 'passenger ship' across the PSS legislation, and more specifically with the definition found in Directive 2009/45/EC. Moreover, in parallel it was suggested to clarify in Article 3 that Directive 98/41/EC does not apply to passenger ships exclusively engaged in a 'port area', as defined in Article 2(r) of Directive 2009/45/EC. All Member States, with the exception of IE, agreed with the proposal to streamline the scope and definitions of the existing PSS legal framework.

1. Definition of sea-going ships		Answers
Yes		18
No		1
No opinion		0

The alignment of the existing legal regime was also the basis for the proposal of question 2, which was supported by 15 Member States. The replacement of the references to 'protected sea area' throughout the Directive by a reference to 'sea area D, as defined in Directive 2009/45/EC', was not accepted by DE and FR, while IE and one MS, raised the issue of the importance of maintaining the reference to 'the proximity of search and rescue facilities is ensured', due to its relevance for this Directive in particular.

2. Definition of protected sea area		Answers
Yes		15
No		4
No opinion		0

Question 3 aimed in replacing the reference of Article 9(4) to an 'area where the annual probability of the significant wave height's exceeding two metres is less than 10 %' by a reference to sea area C , as defined in Directive 2009/45/EC. The majority of Member States (15) agreed with the replacement, which also serves the purpose of the alignment with the existing PSS legislation. DE, FR, IT and one MS objected on the grounds of the difference between the scope of the two Directives, the existing possibility to grant exemptions and potential of further clarification of the definition.

3. Definition of sea area in Article 9(4)		Answers
Yes		15
No		4
No opinion		0

Question 4 proposed a clarification of the 'more than twenty miles from the point of departure' element of Article 5(1) of the Directive, which requires certain information on persons on board to be recorded for such voyages. The proposed clarification was to include 'actual distance sailed by the ship from the port of departure to the next port of call' and it was supported by 14 MS, while DK, IE, IT, NL and UK proposed some alternative wordings, due to the potential ambiguity the proposed amendment may also entail.

4. Definition of 20 nm threshold		Answers
Yes		14
No		5
No opinion		0

On the transmission of the number of the persons on board, the first part of question 5 contained the proposal to replace the references to 'company's passenger registrar' and to 'a shore-based company system' in Article 4(2) by a reference to the National Single Window, as established by Directive 2010/65/EU. 8 Member States disagreed (DE, DK, ES, FR, IE, MT, UK and one MS), while a total of 11 Member States supported the proposal. The main elements of concern were the additional burden for small operators and the maturity of the NSW. An alternative was also suggested by IE towards maintaining the obligation to report electronically, but through a different system, the AIS.

5a. Recording number of persons on board in NSW		Answers
Yes		11
No		8
No opinion		0

On the question of the potential negative impact of this proposal on operators, in particular to those operating ships below 300 GT, the majority of Member States agreed that no significant negative impact is to be expected (12 in total, i.e DE, DK, ES, FR, IE, IT, MT, NL, PL, SE, UK and one MS), 6 Member States disagreed and CY gave no opinion on the matter. Comments related to the need for additional expenses for small operators towards securing internet connection (IE, UK) and other additional expenses.

5b. Impact of recording number of persons on board in NSW		Answers
Yes		12
No		6
No opinion		1

Some comments were also received on the proportionality of the measure in view of the search and rescue needs, which was addressed on the last part of question 5. From the feedback received, the issue of the small operators (IE, SE, FR, UK) was again raised as the main concern. Moreover, DK and NL mentioned the efficiency of the current system in place (option to have paper-based passenger lists) and the need to be maintained as an alternative. IE underlined the need to consider alternatives to the NSW, such as the AIS.

Regarding the transmission of the passengers lists, it was proposed to replace the references to 'company's passenger registrar' and to 'a shore-based company system' in Article 5(2) of the Directive by a reference to National Single Window as established by Directive 2010/65/EU. The proposal was supported by 13 MS, while 6 (DE, DK, IE, MT and one MS) expressed a number of concerns regarding the implementation of this measure at this moment.

6a. Recording passenger and crew lists in NSW		Answers
Yes		13
No		6
No opinion		0

Due to the difference in the operators that are concerned by this measure, there was a similar but not identical feedback on the impact. From the replies that have been provided, 9 Member States agreed that there will be no significant impact (CY, ES, FI, FR, IE, LV, PT, SE and one MS), 8 disagreed (BE, DE, DK, IT, MT, NL, PL and UK) and two Member States expressed no opinion on the issue.

6b. Impact of recording passenger and crew lists in NSW		Answers
Yes		9
No		8
No opinion		2

Question 7 addressed the obligation under Article 5(2) for communication of the list of passengers and crew 'no later than thirty minutes after the passenger ship's departure'. Aiming to align the time at which the number and information on persons on board can be accessed in case of an emergency, the proposal was to record the lists of passengers and crew in the National Single Window 'before departure' (i.e. up to the point of departure). There was an overall support of the proposal by 12 Member States. 7 Member States replied negatively (DE, DK, FI, FR, IT, MT and one MS) and mainly agreed with the importance of immediate communication, but underlining at the same time the need to retain certain flexibility due to last minute boarding, cross checking of the lists etc. Some alternative wordings were proposed in that respect.

7. Delay in recording passenger and crew lists		Answers
Yes		12
No		7
No opinion		0

Regarding the personal data collection from the passenger and crew lists Article 8 requires that the company should not keep the data collected longer than necessary for the purposes of this Directive. It has been noted that the implementation of this requirement differs across Member States. It was not proposed to change the status quo. The vast majority of Member States agreed to this proposal, with the exception of IT.

8. Data retention and access		Answers
Yes		18
No		1
No opinion		0

In order to align the definition of 'passenger registrar' with the amendments above, question 9 proposed to replace the title of Article 2 'passenger registrar' by 'designated person ashore' and in parallel replace his responsibility for 'keeping' the information by 'recording' it in the National Single Window. A majority of Member States (14) agreed with the envisaged amendments, however, 5 Member States expressed their opposition (DK, FI, IE, MT and one MS).

9. Passenger registrar		Answers
Yes		14
No		5
No opinion		0

Question 10 suggested amending Article 10 by removing the requirement to 'approve' the registration systems and replace it by a requirement to 'verify' the accuracy and timeliness of recording the data (and to carry out random checks for this purpose, as required in the second paragraph of Article 10), while retaining the principle of self-declaration of passenger information for voyages longer than 20 nm. The majority of Member States agreed with the proposal, with only 2 Member States expressing concerns (DK and one MS) and BE declaring no opinion.

10. Approval of registration systems		Answers
Yes		16
No		2
No opinion		1

The majority of Member States (15 in total) agreed with the proposal to include information on nationality in Article 5(1) on the basis of self-declaration and to improve the effectiveness of search and rescue operations. Two Member States expressed no opinion on the proposal (BE and one MS) and two MS opposed, DK on the basis of potential additional administrative burden and DE by questioning the improvement that this could potentially bring in the search and rescue operations.

11. Nationality		Answers
Yes		15
No		2
No opinion		2

Finally, in question 12 Member States had the opportunity to raise issues that were not addressed in the proposal and make other suggestions for removing outdated references, ambiguities or overlaps in the Directive. Input to that respect was provided by IT, PL and PT and was examined by the Commission as appropriate.

B. Directive 1999/35/EC on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services:

Question 1 contained the proposal for the vessels operating domestically. The main aim was to transfer the requirements of Directive 1999/35/EC to Directive 2009/45/EC, clarifying that one of the two annual ro-pax surveys (namely the specific 'in-port' survey according to Annex III Directive 1999/35/EC) can be carried out as part of the annual flag State survey, under certain circumstances. The majority of Member States agreed with the proposed combination of the surveys that are contained in the two Directives, however, due to the different scope and difficulties that may arise in the implementation of this merger, 4 Member States (DK, IE and 2 MS) expressed their concern and BE and DE stated they have no opinion on the proposal.

1. Vessels operating domestically		Answers
Yes		13
No		4
No opinion		2

Question 2 contained the proposal for the vessels subject to port State control. The main aim was to transfer the requirements of Directive 1999/35/EC to Directive 2009/16/EC, clarifying that both annual surveys shall be carried out as expanded port State control inspections. This may be the case only when ensuring that these vessels qualify for an expanded port State control inspection when they commence a service ('initial' survey) and thereafter twice per year (i.e. altering the ship risk profile and priority for these vessels in the annexes to Directive 2009/16/EC). A similar input in terms of the overall statistics was received, with almost the same Member States disagreeing with the proposed merger (DK, IE, ES and a MS). DE and one MS provided no opinion.

2. Vessels subject to port State control		Answers
Yes		13
No		4
No opinion		2

Question 3 addressed the issue of vessels operating between an EU MS and a third country where the flag of the vessel is the same as that of the MS. Given that these vessels fall neither within the scope of PSC nor Directive 2009/45/EC, the questionnaire proposed two alternatives. The first was to retain the requirements in Directive 1999/35/EC but clarify that

one of the two annual ro-pax surveys can be carried out as part of the annual flag State survey under the same conditions of those indicated for vessels operating domestically. This approach was supported by 7 Member States (IE, IT, LT, LV, NL, PL and one MS). As an alternative, the second proposal was to transfer the requirements to Directive 2009/21/EC (the Flag State Directive). This approach would allow repealing Directive 1999/35/EC. The second alternative was preferred by 8 Member States (CY, DE, ES, FI, FR, PT, SE, MT), while 4 Member States expressed no opinion (BE, DE, UK and one MS).

3. Vessels operating between an EU MS and a third country where the flag of the vessel is the same as that of the MS		Answers
Keep the requirements in Directive 1999/35/EC		7
Transfer the requirements to Directive 2009/21/EC		8
Other alternative		0
No opinion		4

Question 4 tackled the issue of the objective behind Article 8 of Directive 1999/35/EC that indicates that every 12-month period a specific survey and a survey during regular service must be carried out by host States. Although the aim was to ensure that these two inspections are carried out with a certain time lag, i.e. 5-6 months, this has not always been the case in practice. Therefore, it was proposed to clarify that the two annual inspections should take place at regular, approximately six monthly intervals. The majority of Member States supported this proposal as a positive clarification. DE provided no opinion and 4 Member States (BE, DK, ES, IE) expressed some concerns regarding vessels at seasonal service.

4. Regularity of inspections		Answers
Yes		14
No		4
No opinion		1

There was an agreement among Member States on the proposed replacement of the concept of the host State by the port State (for vessels subject to port State control) or by the flag State (for vessels not subject to port State control). Directive 1999/35/EC in Article 2(k) defines host State, however, this concept was introduced by this Directive to facilitate the cooperation with non-EU Member States prior to the 2004 EU enlargement and is no longer relevant in

practice. Only IE disagreed, considering that it is important to be kept for the purposes of Directive 1999/35/EC. DE and ES were of no opinion.

5. Outdated concept of host State		Answers
Yes		16
No		1
No opinion		2

Most Member State agreed with the proposal of question 6, to remove the requirement of Article 11 to carry out joint surveys by default and to replace by a possibility to do so, i.e. when requested, port State, flag State or a third-country of destination (as appropriate). DE did not provide an opinion on the proposal and two Member States disagreed (IE and one MS).

6. Joint surveys		Answers
Yes		16
No		2
No opinion		1

Directive 1999/35/EC refers to 'surveys' rather than 'inspections'. To ensure the correct use of terminology, question 7 proposed replacing the term 'survey' by 'inspection' when referring to specific ro-pax surveys as currently provided for in Directive 1999/35/EC. The majority of Member States agreed with this proposal and only two Member States (DE and one MS) abstained from providing an opinion on the suggested amendment.

7. Survey vs inspection		Answers
Yes		17
No		0
No opinion		2

There was the same level of positive feedback on the proposed amendment of Annex IV of Directive 1999/35/EC, which refers to 'indicative guidelines'. Article 8 refers to Annex IV as a mandatory part of the 'in-service' surveys and therefore cannot be considered to be indicative. For the sake of legal clarity, it was proposed to remove the reference to 'indicative guidelines'

from Annex IV without any replacement. Only DE and one MS expressed no opinion on the proposal.

8a. Indicative guidelines		Answers
Yes		17
No		0
No opinion		2

On the second part of question 8, given that Annex IV of Directive 1999/35/EC also refers to 'unscheduled' surveys and the Directive provides for 2 annual inspections carried out in regular intervals, the notion of 'unscheduled' surveys shall be interpreted as 'unannounced' surveys. Several alternatives were proposed to that respect, with the majority of Member States being positive in retaining the possibility of 'unannounced' inspections. Two Member States underlined the difficulty of organising 'unscheduled' surveys that are indeed unannounced.

From the alternatives that were proposed, IE, LT and SE preferred to replace the notion of 'unscheduled' surveys in Annex IV by 'unannounced' surveys, de facto making these surveys always unannounced. DK, ES, NL and one MS selected to remove the notion of 'unscheduled' surveys from Annex IV without any replacement and the majority of the MS (BE, CY, FI, FR, IT, MT, PL, PT, RO, UK) preferred the alternative to remove the notion of 'unscheduled' surveys from Annex IV and replacing it by a requirement that such surveys shall be occasionally carried out in an unannounced manner. DE expressed no opinion on the alternatives proposed and LV suggested an alternative wording for the third proposal emphasising that such surveys 'may (could)' be occasionally carried out in an unannounced manner, instead of 'should'.

8b. Unscheduled surveys		Answers
To replace the notion of 'unscheduled' surveys in Annex IV by 'unannounced' surveys		3
To remove the notion of 'unscheduled' surveys from Annex IV without any replacement		4
To remove the notion of 'unscheduled' surveys from Annex IV and replacing it by a requirement that such surveys shall be occasionally carried out in an unannounced manner		10
Other alternative		1
No opinion		1

As regards the 'in-service' survey (i.e. a survey during a regular service), as defined in Article 8, the wording of the Directive leaves certain ambiguity as regards whether this survey should be carried out when the ship is sailing or whether this survey can be carried out in port. To remove this ambiguity question 9 contained the proposal to clarify that 'in-service' surveys shall be carried out in accordance with Annex IV and, in addition, must include items from Annex I and III selected by the national administration to ensure that the ferry or craft continues to fulfil all the necessary requirements for safe operation. There was wide support on this clarification by 16 Member States, while PL proposed an alternative wording and DE expressed no opinion. DK disagreed with the proposed formulation and expressed preference towards maintaining the current wording.

9. Content of 'in-service' survey		Answers
Yes		16
No		2
No opinion		1

Articles 4 and 5 of Directive 1999/35/EC provide for specific requirements related to 'initial verifications' in relation to vessels, companies and flag States. Given that these provisions have been either superseded by other legislation (i.e. accident investigation) or the proposed alignment with the port/flag State responsibilities and are already embedded in the initial surveys mandated by Article 6, it was proposed to remove these two Articles in their entirety. A total of 16 Member States agreed with the intended simplification with FR and IE expressing their disagreement and DE having no opinion on the proposal.

10. Initial verifications		Answers
Yes		16
No		2
No opinion		1

Finally, in question 11 Member States had the opportunity to raise issues that were not addressed in the proposal and make other suggestions for removing outdated references, ambiguities or overlaps in the Directive. Input to that respect was provided by DK, regarding more meetings on the NSW, IE on ISPS and Regulation 725/2004/EC and PL with the provision of a list of repealed legislation. All suggestions were examined by the Commission as appropriate. DE reserved its position on the possibility to provide feedback later on some of the issues.

C. Directive 2009/45/EC on safety rules and standards for passenger ships:

The first part of the questionnaire for Directive 2009/45/EC focused on the clarification, alignment and simplification of a number of definitions that appear in the Directive and have been considered of ambiguous nature, thus also complicating the scope of its application.

In question 1 it was proposed to clarify in Article 3 (2) that Directive 2009/45/EC does not apply to 'offshore supply vessels' as defined in the IMO OSV Guidelines, 2006, as amended. The majority of Member States agreed with the proposed clarification while 5 Member States (DK, FR, IE, NL and UK) opposed to the proposal by either suggesting alternative wording or underlining potential unintended implications.

1. Offshore supply vessels		Answers
Yes		14
No		5
No opinion		0

The first part of question 2 aimed at the clarification of the definition of traditional ships. In Article 3(2a)v, Directive 2009/45/EC excludes 'original, and individual replicas of, historical passenger ships designed before 1965, build predominantly with the original materials'. On the other hand, Directive 2002/59/EC also includes a definition of traditional ships. For the sake of consistency and legal clarity, it was proposed to align these two definitions and the questionnaire proposed two alternative wordings to that respect.

The views among the MS were split with 7 Member States (CY, FR, MT, NL, PL, SE and one MS) opting for the proposed complete alignment with the definition of Directive 2002/59/EC, while 8 Member States (BE, ES, FI, IT, LT, LV, PT and UK) preferred the alignment while retaining the age and the materials. Two Member States provided no opinion (DE and one MS) while DK opposed to the necessity of changing the current text and IE proposed an alternative.

2a. Traditional ships		Answers
Define traditional ships according to Directive 2002/59/EC		7
Define traditional ships according to Directive 2002/59/EC and retain the age (designed before 1965) and the materials (built predominantly with the original materials) criteria		8
Other alternative		2
No opinion		2

The second part of question 2 focused on the need to clarify the coverage of rig-sailing passenger ships. Although the Directive explicitly excludes passenger ships not propelled by mechanical means from its scope (Article 3(2a)ii), these ships usually have an auxiliary diesel engine capable of propelling the ship if needed. It was therefore proposed to clarify that Directive 2009/45/EC does not apply to 'sailing ships', defined as 'ships primarily propelled by sails and usually fitted with mechanical propulsion for auxiliary and emergency purposes'. The majority expressed their agreement with the envisaged clarification and proposed alternative wordings towards achieving more clarity, especially with respect to the auxiliary propulsion element of the definition. DE, DK and IE expressed their disagreement with the suggested definition and BE provided no opinion in this issue.

2b. Sailing ships		Answers
Yes		15
No		3
No opinion		1

The proposal also aims in clarifying Articles 3(2a)vi and 3(2b)ii (i.e. ships outside its scope), where Directive 2009/45/EC refers to pleasure 'yachts' and pleasure 'craft' with neither of them being defined in the Directive. It is therefore proposed to define that 'pleasure yachts and craft' mean 'all kinds of ships or craft intended for sports and leisure purposes, regardless of the means of propulsion, unless they carry more than 12 passengers' for commercial purposes. The majority of Member States supported this proposal with some alternative wordings being suggested for clarity purposes. 3 Member States (IE, MT and UK) disagreed with the proposed text.

3. Pleasure yachts/craft		Answers
Yes		16
No		3
No opinion		0

Question 4 aimed to clarify the scope of the Directive by addressing the issue of tenders, which, as cruise ships have increased in size, they have also increased in some cases to over 300 passengers. It was proposed to clarify that tenders are excluded from the scope of Directive and to define 'tenders' as 'ship-carried boats used for transferring more than 12 passengers from a stationary passenger ship to shore and back, certified either as lifeboats or

passenger ships of like size and service to the tender'. The majority of Member States agreed with the above formulation, with 15 expressing their support and proposing potential alternative wordings that could be followed. MT did not provide with an opinion while 3 Member States (DE, DK, IE) expressed their disagreement.

4. Tenders		Answers
Yes		15
No		3
No opinion		1

According to Article 3, Directive 2009/45/EC does not apply to 'vessels constructed in material other than steel or equivalent'. Although the main body of the Directive does not define what such 'equivalency' stands for, in Chapter II-2 of Annex I, the Directive defines requirements for cases 'where any part of the structure is of aluminium alloy, the following shall apply'. Having acknowledged that the corresponding definition in Chapter II-2 of Annex I may create an impression of ambiguity as regards the coverage of non-insulated (or not sufficiently insulated) aluminium built ships and noting that not all Member States apply the Directive in the same manner; it was proposed to clarify and amend the definition of equivalency, while allowing sufficient phase-in period for the aluminium ships currently not certified under the Directive. The majority of Member States agreed with the proposed clarification and welcomed the amendment, proposing in parallel some alterations and alternative wordings. One Member State provided no opinion and FR, IT and LV disagreed with the proposed formulation; FR underlining the impossibility to upgrade existing vessels to the existing requirements of the Directive.

5a. Aluminium built ships		Answers
Yes		15
No		3
No opinion		1

In order to achieve the maximum level of clarity, the questionnaire was open to input from Member States regarding circumstances in which the Directive's fire insulation requirements were found impracticable or ambiguous. The questionnaire was also open to proposals for their clarification. 6 Member States (ES, FR, IE, IT, SE and UK) responded positively and provided additional information and suggestions for improvement. PT and two other Member States did not provide an opinion on this issue.

5b. Aluminium built ships – identified ambiguities		Answers
Yes		6
No		10
No opinion		3

Regarding the definition of the sea areas C and D, which is currently based on three different parameters, the proposal suggested removing the redundant or overlapping elements. These elements are the reference to 'where the shipwrecked persons can land' and the reference to the 'place of refuge'. The majority of Member States, 13 in total, agreed with the proposed simplification, however 6 Member States disagreed (BE, DE, PL, SE, UK and one MS). There was an agreement among Member States to remove the reference to shipwrecked persons, however, PL, SE and UK opposed the removal of the reference to the places of refuge and UK also proposed the removal of the reference to significant wave height.

6a. Definition of sea areas		Answers
Yes		13
No		6
No opinion		0

The questionnaire also addressed the issue of the potential impact of the proposed simplification on the current delimitations of sea areas with 7 Member States replying positively (DE, NL, PL, PT, SE, UK and one MS), 9 Member States negatively (BE, CY, DK, ES, FI, FR, IE, IT and LV) and 3 Member States (MT, LT and one MS) expressing no opinion. Specific examples were provided as feedback to that respect.

6b. Impact on sea areas demarcation		Answers
Yes		7
No		9
No opinion		3

On ships below 24 m in length the majority of Member States agreed with the proposal to exclude them from the scope of Directive 2009/45/EC. There was disagreement from DE, IE and IT who preferred maintaining the current situation.

7. Ships below 24 m in length		Answers
Yes		16
No		3
No opinion		0

The majority of Member States, 17 in total, agreed with the need to reformat Annex I of the Directive that contains the currently applicable technical requirements, acknowledging that with the adoption of SOLAS 2009, the numbering and the format of the corresponding Regulations have significantly changed. The UK did not provide an opinion regarding the present proposal while DE disagreed on the ground that there are deviations between the requirements in the Directive and those to be found in SOLAS.

8. Format of Annex I		Answers
Yes		17
No		1
No opinion		1

On the reporting of exemptions/equivalencies etc., Directive 2009/45/EC (and in principle also Directive 98/41/EC) define a sui generis notification procedure that is rather lengthy. In addition, there is no database where such measures would be recorded and made available to all Member States and operators for their consideration. Therefore, it was proposed to mandate the Commission to set up and maintain a database (possibly through CIRCA) containing the notifications and information provided by Member States under Article 9 (1, 2 or 3); indicate that such database would serve the purpose of informing other Member States as foreseen in Article 9 (4); and specify that condition of access to the database shall be decided with the assistance of the Committee (COSS). MT disagreed due to the potential additional burden that this would impose and UK, LT and one MS expressed no opinion on the proposal. However, the majority of Member States welcomed this proposal.

9. Notification tools		Answers
Yes		15
No		1
No opinion		3

Finally, in question 10 Member States had the opportunity to raise issues that were not addressed in the proposal and make other suggestions for removing outdated references, ambiguities or overlaps in the Directive. Input to that respect was provided by DK, FI, FR, NL, UK and one MS, all of which were taken into consideration as relevant.

Norway

Replies on the questionnaire were also provided by Norway and can be briefly summarised as follows, according to the proposed amendments for each Directive.

Regarding Directive 98/41/EC, there was general support to the proposals, especially regarding the scope of the Directive (question 1) and the clarification of the definitions and references to 'protected sea area' (question 2), 'sea area C' (question 3) and the measurement of the distance from the point of departure (question 4). In the same lines there was a suggestion to remove the reference to 'including in its archipelagic sea areas' from Article 9(3) due to the potential of causing inconsistencies.

There was disagreement on questions 5 - 6 and the proposal to replace the reference to 'company's passenger registrar' by a reference to the NSW (both for the number of passengers and the passenger lists), on the ground that the shore based system currently in place is functioning well, especially on short crossings. They also highlighted the potential impact on small operators.

NO expressed its support on the suggestions regarding the time the lists of passengers need to be communicated (question 7). There was also an agreement with respect to the time period

the personal data is permitted to be kept and the circumstances under which they should be made available to the competent authorities (question 8). Regarding the passenger registrar, NO expressed no opinion on the proposal of question 9 (replacing passenger registrar by designated person ashore), but agreed with the suggestion to remove the requirement to approve the passenger registration systems by a verification of accuracy and timeliness of recording the data. The same applies with respect of the proposal of introducing nationality as mandatory information to be registered for persons on board.

Regarding Directive 1999/35/EC, there was an overall support and agreement with the suggested proposals. More specifically, regarding the potential transfer of the requirements of Directive 1999/35/EC, for vessels operating domestically, to Directive 2009/45/EC (question 1) and for vessels subject to Port State Control, to Directive 2009/16/EC (question 2), NO expressed their agreement. For the vessels operating between EU MS, NO selected the alternative of keeping the requirements in Directive 1999/35/EC (question 3).

In general, there was an agreement regarding the proposals on the interval between the surveys (question 4), the abolition of the host state concept (question 5), the removal of the requirement of carrying out joint inspections and replacement by a possibility to do so (question 6) and the replacement of the reference to surveys, by a reference to inspections (question 7). On the discussion and relevant proposals of question 8, which covers the issue of the 'indicative guidelines' and 'unscheduled surveys' of Annex IV, on the former NO agreed with proposal to remove the reference to the guidelines without any replacement, while on the surveys they proposed the alternative to replace the wording should with "inspections" rather than "surveys". Finally, on question 9, they agreed with the clarification on 'in-service surveys'.

With respect to Directive 2009/45/EC, NO disagreed with the proposal regarding the clarification of the offshore service vessels and underlined that the IMO discussions need to be taken into consideration (question 1). On question 2 and traditional ships they supported the alignment of the definition with that of Directive 2002/59/EC, without including any additional elements in that definition. Support was also expressed with respect to the proposals on sailing ships (question 3) and pleasure crafts (question 4). On aluminium ships, NO agreed with the amendments that were proposed, however, acknowledged that ships that have been built according to different rules than those under the Directive will have difficulty to comply with the proposed amendment (question 5). No specific circumstances of impracticability were identified by NO. There was also a positive input on the clarification of the definition of sea areas (question 6), the exclusion of ships below 24m (question 7) and the reporting of the exemptions (question 9), while they expressed no opinion on the reformatting of the Annex (question 8).