

# An Italian Way for Yacht Coding?

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**Abstract.** Many international conventions adopted at IMO level were conceived for “merchant” ships and their application to leisure yachts turned out to be challenging. That’s why alternative solutions have been explored worldwide. In a nutshell, the idea was to create a set of rules and standards specifically adapted to this genre of vessel. Here, the key issue is represented by the establishment of technical, safety and operational parameters appropriate to the size and operation of the said crafts. A successful example of these attempts is offered by the two Codes of Practice published by the UK Maritime & Coastguard Agency (MCA): the Large Commercial Yacht Code (LY3) applicable to vessels of 24 metres and over in load line length that don’t carry more than 12 passengers, and the Passenger Yacht Code (PYC) devoted to rule pleasure yachts of any size, which carry more than 12 but not more than 36 passengers. The Red Ensign Group (REG) is currently updating them through a new regulatory framework. Could this approach be followed also in Italy?

**Keywords.** Yacht; IMO Conventions; LY3 Code; PYC; REG Yacht Code; Italian Recreational Craft Code; Italian Passenger Yacht Code

## 1. Introduction

With Legislative Decree No. 229 of November 3<sup>rd</sup> 2017 a significant market-oriented reform of the Italian recreational boating regulation has been accomplished. In fact, Legislative Decree No. 171 of July 18<sup>th</sup> 2005, which constitutes the Recreational Craft Code, has been integrated and revised by the first one. The main aims of the action were already laid down in Art. 1 of the enabling act, Law No. 167 of October 7<sup>th</sup> 2015, which had delegated the government to amend the relevant legislation within 24 months.[1] Such a wide-ranging review of the previous discipline has been directed accordingly to modify the administrative and navigational regime of watercrafts, to implement controls on the shipping safety and to prevent fires along the coastlines, to update the psychophysical requirements needed for achieving the boating licence, to set up new procedures for the installation of cutting edge feeding machinery for craft engines (using LPG, methane and electricity as a fuel), to adapt the system of penalties in respect of the seriousness of the conduct, of the harm caused to public interests and of the nature of the hazard.[2]

In this context, the attentiveness to stay at forefront of technological developments and to intercept the latest economic phenomena have represented two of the major challenges to be faced. Indeed, given the transnational character of the nautical tourism as well as of the boating, the efficiency and the value of the newborn measure should be

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weighed in relation to other forms of encoding and sets of rules. Here, a profile for comparison and an outstanding question can be constituted by leisure yachts, a category of ships regulated in a manifold way and that would require standards specifically dedicated to them.[3]

## **2. The discipline of yachts: a glance at the main definitions**

Apart from a few exceptions, the yachting industry is governed by laws and conventions conceived for commercial and private vessels indistinctly. This implies the extension to the sector of rules which were built mostly for the resolution of safety concerns and crucial aspects raised by the merchant marine. Considering such a background, to fully grasp the intricacy of the regulatory framework it is now appropriate to explore the galaxy of existing yachts, through a continent hopping.

For the sake of uniformity, the complex picture of definitions provided by at national level should be overcome; it is then possible to distinguish three basic categories: large yachts; private yachts and commercial yachts. Only the first one has gained a universal acknowledgement in the legal community and in the international discipline dedicated to the subject-matter, while the other two groups maintain more nuanced boundaries. Large yachts are recreational crafts characterized by a load line length equal to or greater than 24 m. Given the size, they have been made subject to safety codes by nearly all the flag administrations. Private yachts represent pleasure vessel deployed exclusively for the entertainment of the owners or their guests. Conversely, commercial yachts can be identified in vessels intended for commercial exploitation, with no cargo on board and receiving no more than twelve passengers.[4]

Anyhow, if from an international viewpoint uncertainties in the defining framework are still existing, it can be noticed that, thanks to the creditable work of the IMO, which has laid the juridical foundation of an articulated system of conventions in the maritime domain, the yachting industry has been affected by a wide spectrum of general rules. Nonetheless, the extension of this discipline is not easy and precise, since the vessels under consideration have peculiar features which deserve to be specifically addressed.[5]

## **3. The application of IMO conventions to the yachting industry**

While noting the undoubted difficulties in applying the conventions elaborated within the IMO to yachts, it is very important at the outset to investigate those among them which have a significant impact in the field and to grasp their rationale.

### *3.1. The TONNAGE Convention*

Taking into consideration the International Convention on Tonnage Measurement of Ships (TONNAGE Convention), established in London on June 23<sup>rd</sup> 1969, it is fundamental to reckon that the latter can be applied only to large yachts. Indeed, according to its Art. 4, par. 1, lett. b), “ships of less than 24 metres (79 feet) in length” are explicitly excluded from the scope of application of such agreement. Moreover, in line with the previous Art. 3, only vessels “engaged on international voyages” can be directly subjected to the provisions of this legal tool. Furthermore, in compliance with

its Art. 4, par. 2, when the boat is “solely navigating” in specific stretches of water (as, for example, the Great Lakes of North America or the Caspian Sea), it is exempted from the obligations set out therein. However, no distinction is made on the basis of the use, commercial or private one, of the ship.[6]

### 3.2. *The MARPOL 73/78 Convention*

With reference to the International Convention for the Prevention of Pollution from Ships of 1973, as deeply modified by a Protocol of 1978 (MARPOL 73/78), it should be underlined that foreclosures grounded on dimensional requirements are not expected. In fact, according to its Art. 2, n. 4, a ship has been identified in “a vessel of any type whatsoever operating in the marine environment”. Understandably, such a broad definition allows the inclusion of every yacht in the recalled concept. Suffice it to say that the term here expressly includes hydrofoil boats, floating crafts and air-cushion vehicles. In this text, the notion assumes a comprehensive meaning, encompassing several aspects and goods connected with the maritime sphere.[7]

Going into details, as far as the prevention of pollution by oil is concerned, Annex I of MARPOL 73/78 Convention, which is dedicated to the issue, states in its Regulation 2, par. 3, lett. a) that, when the constructional features of any “hydrofoil, air-cushion vehicle and other new type of vessels”, like near-surface craft, make unreasonable or impracticable to apply the rules contained therein regarding their equipment and building, the relevant national authority can decide to exempt them from the said precepts, provided that equivalent protection is ensured. This provision testifies the importance of guaranteeing respect for the parameters fixed by the convention under scrutiny and the sectoral legislation associated to it.[8]

### 3.3. *The AFS Convention*

Anti-fouling treatment aims at coating the bottom of ships to prevent the birth and the growth of marine organisms, such as algae and mollusks, attaching themselves to the hull. The phenomenon is impeded since it slows down the vessel and can raise fuel consumption. The used products progressively percolate into the sea water, killing barnacles and sealife attached to the ship. Still, these substances persist in the environment, causing its gradual contamination and potentially entering the food chain. The International Convention on the Control of Harmful Anti-fouling Systems on Ships (AFS) has been thought to address the just mentioned issue.[9] Adopted on October 5<sup>th</sup> 2001 and entered into force on September 17<sup>th</sup> 2008, the convention in question prohibits or controls the use of these elements, which are accurately listed in an annex to it. Now, pursuant to Art. 2, n. 9, to be read in conjunction with the following Art. 3, the AFS Convention should apply to all sort of ships and, hence, also to every yacht. Indeed, the first provision pinpoints the traits of a ship, within the meaning of the examined legal instrument, in a “vessel of any type whatsoever operating in the marine environment”. This part of the definition is identical to that furnished by the MARPOL 73/78 Convention, as shown above. Likewise, for greater certainty, the same term specifically comprises in the notion floating crafts, hydrofoil boats and air-cushion vehicles here too. In conclusion, organotin compounds acting as biocides in anti-fouling systems, such as

tributyltin (TBT)[10],<sup>2</sup> cannot be applied to yachts and, when apposed on them in the past, the latter have to bear an overlay constituting a barrier to possible leaching from the underlying non-compliant treatment.

### 3.4. *The SALVAGE Convention*

Thanks to this legal instrument the “no cure, no pay” principle, carved in the Brussels Convention for the Unification of Certain Rules with Respect to Assistance and Salvage at Sea of 1910, has been overcome and any reasonable expenditure incurred in attempting to save lives at sea should be rewarded. Besides, the same treaty has acknowledged that every effort to avoid or reduce environmental damages is to be compensated. The International Convention on Salvage (SALVAGE), adopted on 28<sup>th</sup> April 1989 and entered into force on 14<sup>th</sup> July 1996, has substantially changed the subject-matter. Its profound impact involves also the yachting industry, since the knowledge of vessel offered by its Art. 1, lett. b) engages “any ship or craft, or any structure capable of navigation”. One of the major implications of this subjection to the said convention is that the yacht master must respect the duty to render assistance as codified by its Art. 10. In practical terms, the yacht captain “is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea”. [11]

### 3.5. *The SOLAS Convention*

The International Convention for the Safety of Life at Sea (SOLAS), came to light on January 20<sup>th</sup> 1914, was replaced in 1960 and, in the currently widely used version, was adopted on 1<sup>st</sup> November 1974 and entered into force on 25<sup>th</sup> May 1980, but has been repeatedly amended over the recent years. It includes provisions setting out general obligations that are followed by an Annex divided into 14 Chapters. The importance of the legal instrument in determining safety standards for the shipping industry is tough to deny. Nonetheless, the validity of such an influential treaty is mainly reduced to merchant vessels. Admittedly, pursuant to Regulation 3, lett. a) of Chapter I, Part A, as a general rule, the SOLAS Convention should not be applicable to “pleasure yachts not engaged in trade” (v), to “ships not propelled by mechanical means” (iii) and “wooden ships of primitive build” (iv). But that’s not all. As may be evidently inferred from Regulation 1, lett. a) and Regulation 4, lett. a) of the same Chapter I, Part A, the treaty concerns ships involved on international voyages. The joint action of these two exclusions from the scope of the convention, severely restricts its application to yachts, since they should be operated only for trade, be deprived of any recreational nature and be deployed for international routes. [12]

That reported, there is a remarkable exception: Chapter V, devoted to safety of navigation, expressly covers “all ships on all voyages”, as stated by its Regulation 1, par. 1. The latter excludes the application of this portion of the SOLAS Convention only for a few categories of vessels, such as “warships, naval auxiliaries and other ships owned or operated by a Contracting Government” or active in specific stretches of water. Moreover, the latter expression has been clarified by the following Regulation 2, n. 3 which asserts that it embraces “any ship, vessel or craft irrespective of type and purpose”.

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<sup>2</sup> In particular, the harmfulness of the organotin tributyltin (TBT) consists, for instance, of provoking deformations in oysters and sex changes in whelks.

Consequently, yachts can be deemed to be ruled by Chapter V of the SOLAS Convention. Nevertheless, if they are not reaching sizeable thresholds (150 gross tonnage engaged on any voyage and 500 gross tonnage not engaged on international voyages) they can be exonerated from the compliance with many provisions by the flag administration. Furthermore, Regulation 3 of the said Chapter V foresees the possibility to benefit from general exemptions from certain precepts when the ship has no mechanical means of propulsion. In addition, it envisages “individual ships exemptions or equivalents of a partial or conditional nature, when any such ship is engaged on a voyage where the maximum distance of the ship from the shore, the length and nature of the voyage, the absence of general navigational hazards, and other conditions affecting safety are such as to render the full application of this chapter unreasonable or unnecessary”. Under these circumstances, the norm requires at any rate the flag administration to weigh the effects of such exemptions and equivalents upon the safety of all other vessels.[13]

Also another segment of the SOLAS Convention could intervene in regulating yachts, although with an application circumscribed to those having the strongest power. Here its Chapter X is contemplated, owing to the safety measures for high-speed craft prescribed therein. The virtue of this invoked section is that it has made the International Codes of Safety for High-Speed Craft (HSC Codes) compulsory. The latter, adopted in 1994 and 2000 by IMO’s Maritime Safety Committee, provide an articulated framework of comprehensive requirements, including equipment and conditions for operation and maintenance. The legal tools cover passenger crafts which do not proceed when fully laden for more than four hours at operational speed from a place of refuge, as underlined by Regulation 2 of the mentioned Chapter X. Moreover, HSC Codes require the craft to be involved on an international voyage. In accordance with the formula embedded in Regulation 1, par. 3 of Chapter X in view of defining a high-speed craft,<sup>3</sup> the main target of the instrument is manifestly represented by air-cushion vehicles, hovercrafts and hydrofoil boats.[14]

### 3.6. *The COLREGs Convention*

The Convention on the International Regulations for Preventing Collisions at Sea (COLREGs), adopted on October 20<sup>th</sup> 1972 and entered into force on July 15<sup>th</sup> 1977, has refreshed and substituted the Collision Regulations of 1960. It dictates the navigation principles by way of 41 rules divided into five sections compounded by four annexes laying down technical requirements. On the grounds of its Rule 1, lett. a), the COLREGs Convention relates to “all vessels upon the high seas and in all waters connected therewith navigable by seagoing vessels”. Besides, pursuant to the following lett. b), special regulations concerning “roadsteads, harbours, rivers, lakes or inland waterways connected with the high seas and navigable by seagoing vessels”, are required to “conform as closely as possible” to the COLREGs Convention.[15]

In the light of these provisions, yachts can be subsumed under the latter when they are navigating in areas of high seas or waters linked to them and accessible to boats fit for marine spaces. Anyhow, if the craft is characterized by a special construction or

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<sup>3</sup> Indeed high-speed crafts are recognized by Regulation 1, par. 3 of Chapter X of the SOLAS Convention in those capable of a maximum speed, in metres per second (m/s), equal to or exceeding 3.7 times the one-sixth power of the volume of displacement corresponding to the design waterline (m<sup>3</sup>), “excluding craft the hull of which is supported completely clear above the water surface in non-displacement mode by aerodynamic forces generated by ground effect”.

purpose, and, for this reason, is excluded by the treaty under scrutiny, it shall be ruled by a specific discipline, enacted by the relevant government with reference to “number, position, range or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signalling appliances”, that needs to conform to the COLREGS Convention, as demanded by its Rule 1, lett. e).[16]

### 3.7. *The STCW Convention*

Although the international attitude of shipping has never been called into question, requirements and procedures regarding training, certification and watchkeeping of officers were settled by each State on its own until the end of the 1970s, often at the expense of serious detriment to the quality of performance and working conditions. To tackle the problem, IMO prepared and enhanced a specific treaty: the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), adopted on July 7<sup>th</sup> 1978 and entered into force on April 28<sup>th</sup> 1984, deeply altered with the amendments of 1995, which took effect on February 1<sup>st</sup> 1997, and the Manila amendments of June 25<sup>th</sup> 2010, that came into force on January 1<sup>st</sup> 2012.[17]

Thanks to the revision of 1995 the technical annex of the treaty has been divided into regulations, in their turn grouped into eight Chapters, and into sections forming a new STCW Code, that has incorporated many technical regulations. Now, while Part A of the said STCW Code is mandatory, Part B is recommended. This sequence of prescriptions is preceded by provisions having a general nature. Amongst them, Art. III points out that the STCW Convention is applicable to “seafarers serving on board seagoing ships entitled to fly the flag” of a Contracting Party to it. In this respect, Art. II singles out the notion of seagoing ship in a vessel “other than those which navigate exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply”. The definition appears to be very wide but the fact that means used solely in inland, sheltered or harbor waters and adjoining basins are excluded from the scope of the convention, permits to infer that yachts of smaller stature could be exonerated. Nevertheless, there is an important exclusion to be highlighted: Art. III, under lett. c) rules out “pleasure yachts not engaged in trade”, whereas under lett. d) leaves out “wooden ships of primitive build”. Thus it is possible to conclude that large yachts used for commercial purposes remain subject to the discipline envisaged by this convention. Similarly, also medium-sized crafts used for business fall in theory within the competence of such legal instrument. As will be shown in the next paragraph, the only option for a State Party to prevent that outcome is to profit from the opportunity to adopt educational and training arrangements, “especially adapted to technical developments and to special types of ships and trades”. Nonetheless, the derogatory standards shall be equivalent in reaching the objectives of the STCW Convention in terms of degree of safety and protection of the environment,<sup>4</sup> as required by its Art. IX.[18]

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<sup>4</sup> Going into details, the STCW Convention here requires that “the level of seagoing service, knowledge and efficiency as regards navigational and technical handling of ship and cargo ensures a degree of safety at sea and has a preventive effect as regards pollution at least equivalent to the requirements”.

### *3.8. The LL Convention*

The International Convention on Load Lines (LL), adopted on April 5<sup>th</sup> 1966 and in force since July 21<sup>st</sup> 1968, has intervened in a field already ruled by a homonymous, although very different, treaty of 1930. Its renown derives from the establishment of freeboard of vessels by subdivision and damage stability calculations. As a preliminary norm, according to Art. 4, par. 2 the LL Convention is enforceable to “ships engaged on international voyages”. On top of that, pursuant to Art. 5, par. 1 it cannot be applied to certain categories of vessels, such as “new ships of less than 24 metres (79 feet) in length” (lett. b), “existing ships of less than 150 tons gross” (lett. c) and, most of all, “pleasure yachts not engaged in trade” (lett. d). Hence, large yachts, involved in international journeys and exploited for commercial goals fall under the convention regulation and shall be “surveyed, marked and provided with an International Load Line Certificate” or, alternatively, benefit from an International Load Line Exemption Certificate, unless they navigate uniquely in specific basins enumerated by Art. 5, par. 2 (such as, for instance, the Great Lakes of America or the Caspian Sea). There is also here a possibility to escape from the application of the Convention under scrutiny by means of equivalents. Thereupon, Art. 8 prescribes that “fitting, material, appliance or apparatus, or provision, is at least as effective as that required” by the treaty itself.[19]

## **4. Emblematic national regulations for the yachting industry**

After examining the conventions drafted or updated at IMO level for evaluating their applicability to the vast category of yachts, it is now appropriate to get a glimpse at the national legislation focused on this genre of craft. The perspective taken in the present paper, due to space limitations and for the sake of convenience, will hinge on cases in point having regard to the subject-matter. In this context, the observation deck lies in the setting of technical, safety and operational standards adjusted to the size and operation of yachts. As a preliminary remark, it should be noticed that the most prominent flag States for the sector under consideration are the United Kingdom, Malta, Italy, the Marshall Islands, Luxembourg, the Cayman Islands and the Isle of Man. Because of the enrollment of these crafts in their registries, the rules issued in the said countries exert a significant influence beyond their borders and, therefore, are of primary interest to the current analysis.

An interesting example is represented by the Large Commercial Yacht Code (LY3), jointly drawn up in 2012 by the United Kingdom, with the involvement of its Overseas Territories, namely Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, St. Helena and the Turks & Caicos Islands as well as the Crown Dependencies, such as the Isle of Man, Jersey and Guernsey, but mostly with the participation of international industry delegates. LY3 constitutes a Code of Practice designed to fix requirements of safety and pollution prevention that are best suited to “vessels in commercial use for sport or pleasure”, sail training ships included, which don’t carry cargo as well as more than 12 passengers and measure at least 24 metres in load line length or, if built before July 21<sup>st</sup> 1968, at least 150 gross tons in accordance with the tonnage measurement regulations applying at that date.[20]

The United Kingdom has notified the IMO of this legal instrument and its application to pleasure vessels engaged in trade as an equivalent arrangement pursuant to Art. 8 of the LL Convention of 1966, Regulation 5 of Chapter I of the SOLAS

Convention of 1974 and Art. IX of the STCW Convention of 1978. Indeed, the parameters established in the code have been assessed to display effects commensurate with those prescribed by the international conventions.

The LY3 Code meets the need to guarantee an articulated grid of norms devoted to crafts commercially deployed for sport or pleasure, such as large yachts, which do not fall naturally into a single class of ships and, anyhow, find great technical difficulties in the implementation of the international conventional law hitherto illustrated, since this one concentrates too much on merchant shipping. In particular, the LY3 Code represents a development of the previous Large Commercial Yacht Code (LY2) of 2005 [21], which has been revised and updated to comply with the Maritime Labour Convention of 2006, drafted by the International Labour Organization (ILO)[22]. In its turn, the LY2 Code had replaced the first set of standards the Code of Practice for the Safety of Large Commercial Sailing and Motor Vessels (LY1), published by the United Kingdom Maritime & Coastguard Agency (MCA) in 1997 and entitled to have statutory force on the grounds of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations of 1998.

The fulfilment of the parameters and the observance of the conditions determined in the LY3 Code permits the large yachts, as a result of a careful inspection, to achieve the LY3 Certificate of Compliance.

Now, in order also to operate British Shipping Registers, provide a continuous support to this codification activity as well as its constant review, the United Kingdom, its relevant Overseas Territories and Crown Dependencies have shaped a collaborative structure, the Red Ensign Group (REG)[23].

But there's more. The LY3 Code does not serve as an isolated example. In fact, the REG has developed another Code of Practice, devoted to furnish "design criteria, construction standards and other safety measures" to "pleasure yachts of any size, in private use or engaged in trade, which carry more than 12 but not more than 36 passengers and which do not carry cargo". Reference is made here to the Passenger Yacht Code (PYC). To be more accurate, in accordance with Section 1.2 of its Chapter 1, the maximum number of persons on board, comprising the crew, cannot exceed the threshold of 99 units and the recreational craft shall be "engaged on international voyages". The first edition of this tool was promulgated in 2010 and, due to the revisions effected on annual basis, a sixth edition has been already reached in January 2016. The main purpose of the PYC is to minimize the risks to these yachts, to their personnel and to the environment, as underlined by Section 1.1 of its Chapter 1, while avoiding to abide by the burdensome SOLAS Convention requisites. Notably, the legal instrument aims at overcoming conflicts between the inflexibility derived from the latter and the promotion of aesthetic values, trying to combine multi-faceted demands and escaping from draconian enforcement.[24]

That being said, it is worth noting that last November 2017 a new code has been launched: the REG Yacht Code. This meaningful measure, which will enter into force in January 2019, intends to bring together the LY3 Code and the PYC, without mixing them. It is composed of two different portions, completed by fifteen common annexes. Part A modernizes the rules contained into the LY3 Code, whereas Part B renovates the sixth edition of the PYC. According to early comments, although there are no substantial changes in the discipline, the REG Yacht Code has the virtue of crystallizing technical adjustments and of ensuring more flexibility in relation to the changing technology, while making more room for the requests of naval architecture and design.



## 5. A glance at the yachting industry from the revised Italian Recreational Craft Code

As reported at the very beginning of this paper, Legislative Decree No. 229 of November 3<sup>rd</sup> 2017 has integrated and revised the Italian Recreational Craft Code embodied in Legislative Decree No. 171 of July 18<sup>th</sup> 2005. As far as the yachting industry is concerned, special emphasis should be placed on the new definition of commercial yacht provided by the new Art. 3, lett. b) of the just mentioned legal tool. The norm makes it clear that the concept covers, on the one hand, every recreational craft used for commercial purposes, as identified by the previous Art. 2 of the Code, compounded, on the other hand, by ships chartered exclusively for tourist purposes, as contemplated by Art. 3 of Law No. 172 of July 8<sup>th</sup> 2003.[25]

The first category is now distinguished in a more effective way by the recalled Art. 2, par. 1. It encompasses crafts subject of lease and charter contracts (lett. a), devoted to the recreational boating training (lett. b), employed as a support unit for beginners by diving and underwater drills centers (lett. c), deployed to assist the mooring as well as the towage of the vessels chartered exclusively for tourist purposes (lett. *c-bis* and *c-ter*). Here the changes of greatest relevance to the sector are represented by the annotation of the commercial use of the ship in the newborn Telematic Central Archive of the Recreational Crafts (ATCN) together with the details regarding its operation and, in case the said activities are regularly conducted in Italy, the obligation to declare to a specific computerized info point (named Sportello Telematico del Diportista, STED) the characteristics of the means, the juridical title justifying its availability, the insurance policy and the safety certification regarding the craft. Moreover, the commercial purpose should be made explicit also in the traffic licence.

The second category amounts to ships with the hull longer than 24 metres, engaged in international navigation and chartered only for touristic purposes. Furthermore, these vessels shall be enabled to carry on board up to a maximum of 12 passengers, crew excluded. Given their features, they can be enrolled in the Italian International Registry.[26]

Still, there is another provision that plays a more prominent role: Art. 59 of Legislative Decree No. 229 of November 3<sup>rd</sup> 2017. Pursuant to it, within six months of the entry into force of the just mentioned act, the Minister for Infrastructure and Transport in coordination with the relevant Ministers shall adopt a decree in accordance with Art. 17, par. 3 of Law No. 400 of August 23<sup>rd</sup> 1988, specifically designed to modify the implementing legislation regarding: (i) the safety of navigation of recreational crafts as well as commercial yachts at sea and in the internal waters (Art. 59, par. 1, lett. g); (ii) equivalent measures and exemptions in terms of safety of navigation as well as conditions for issuing the pertaining certificates to ships chartered exclusively for tourist purposes (Art. 59, par. 1, lett. h). Besides, with the same procedure and legal instrument the Minister is called upon to adopt an Italian Passenger Yacht Code devoted to streamline requirements and standards of the conventional regulation presented above to be fulfilled by crafts carrying on international voyages more than 12 but less than 36 passengers and without any cargo on board (Art. 59, par. 1, lett. aa). In particular, the same precept explicitly requires to concentrate the efforts on rationalizing parameters and general principles deriving, *inter alia*, from the SOLAS Convention, the TONNAGE Convention, the COLREGs Convention, the MARPOL 73/78 Convention, the AFS Convention, the LL Convention and the STCW Convention. In addition, where the application of the just mentioned treaties to the passenger yachts is not reasonable or not

viable from a technical viewpoint exemptions and equivalent arrangements have to be identified by the decree under consideration.

## 6. Conclusions

The significant progress made by the Italian legislator through the renovated Recreational Craft Code are only the first step towards a set of rules that could be better adapted to the peculiar characteristics of the yachting industry. The introduction of the concept of commercial yacht, indeed, represents a precondition for a regulatory development which is still to be effected. The great opportunity is offered by the Italian Passenger Yacht Code and, more in general, the Decree of the Minister for Infrastructure and Transport foreseen by Art. 59 of Legislative Decree No. 229 of November 3rd 2017. This is a major and immediate challenge, since the legal tool shall be enacted within six months starting from February 13<sup>th</sup> 2018, date of the entry into force of the mentioned Legislative Decree. The need of guaranteeing a detailed discipline for specific typologies of yachts capable of avoiding excessive inflexibility in their construction, design and operation is quite understandable. The attractiveness of the Italian Shipping Registries and the competitiveness of the sector are at stake. Smart normative choices and effective rationalizations can be highly welcomed by the various stakeholders.[27] On the subject, it might come in handy to analyze the REG Yacht Code and its predecessors, LY3 Code and PYC, in order to draw inspiration from the United Kingdom experience in the field.

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