

COMMISSION OF THE EUROPEAN COMMUNITIES

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Amended proposal for a
COUNCIL REGULATION (EEC)
establishing a Community ship register and providing for
the flying of the flag by sea-going vessels

Amended proposal for a
COUNCIL REGULATION (EEC)
on a common definition of a Community shipowner

Amended proposal for a
COUNCIL REGULATION (EEC)
applying the principle of freedom to provide services
to maritime transport within Member States

(presented by the Commission pursuant to Article 149(3)
of the EEC Treaty)

EXPLANATORY MEMORANDUM

On 3 August 1989 the Commission submitted to the Council proposals for

- a Council Regulation establishing a Community ship register and providing for the flying of the Community flag by sea-going vessels;
- a Council Regulation on a common definition of a Community shipowner; and
- a Council Regulation applying the principle of freedom to provide services to maritime transport within Member States.

At its Plenary Session on 26 October 1990 the European Parliament approved the Commission's proposals with a number of amendments.

The Commission has accepted certain amendments, including many of those involving changes of definition or laying down detailed procedures. Among the amendments accepted are those concerning guidelines to be laid down by the Commission as a basis for the issue of minimum manning certificates for vessels on the Community ship register (EUROS), those amending nationality requirements for crews on EUROS vessels (and in particular setting more stringent nationality requirements for passenger vessels and ferries), and those providing for monitoring of the availability of seafarers who are nationals of the Member States.

Amendments relating to the introduction of a uniform system of taxation, based on tonnage, of ships registered in EUROS, and to the exemption of seafarers domiciled in the Community from income tax in respect of employment on ships registered in the Community have complex and potentially far-reaching implications for the fiscal systems of the Member States, and the Commission is examining these before reaching a firm conclusion as to their acceptability. Further amendments to the proposal for a Council Regulation establishing a Community ship register will be submitted as necessary at a later stage.

A number of amendments are not acceptable, since they would introduce subjects outside the scope of the regulations, would fall outside normal budgetary procedures (amendment concerning Community aid for EUROS vessels) or would subject the implementation of the regulation on freedom to provide services to permanent derogation or unacceptable delay.

Amended proposal for a Council Regulation
establishing a Community ship register and providing the
flying of the Community flag by sea-going vessels

(Submitted by the Commission pursuant to Article 149(3)
of the EEC Treaty)

INITIAL PROPOSAL

AMENDED PROPOSAL

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty
establishing the European Economic
Community, and in particular
Article 84(2) thereof,

Visas unchanged

Having regard to the proposal of
the Commission,

Having regard to the opinion of
the European Parliament,

Having regard to the opinion of
the Economic and Social Committee,

Whereas shipping is an
indispensable element in trade
between the Member States and
between Member States and third
countries;

Unchanged.

Whereas the availability of a high
quality and truly competitive
fleet depends, on the one hand,
on the availability of a maritime
infrastructure within the
Community including a reserve of
nationals of Member States to
serve as seafarers and, on the
other hand, a cost level which
is competitive;

Whereas the availability of a high
quality competitive fleet depends
on the availability of a maritime
infrastructure within the
Community allowing for the
preservation of a sufficient
number of nationals of Member
States to serve as seafarers
and a cost level which is
competitive;

Whereas the fleet flying Member
States' flags has suffered a
considerable decline over the

Whereas the comparative advantage
of Community shipping has been
eroded over the years, and the

years and to the extent that ships have been transferred to third country registers, there has been a severe loss of employment for Community nationals

fleet flying Member' States flags has suffered a considerable decline, and to the extent that ships have been transferred to third country registers, there has been a severe loss of employment for Community nationals; and as a result the invisible earnings of the Member States of the Community have declined.

Whereas the efforts to meet the problem through national measures, inter alia the establishment of second national registers, to which more favourable conditions are attached, tend to disperse the effects of the actions undertaken and risk a distortion of competition;

Whereas the efforts to meet the problem through national measures, either by the establishment of second national registers, to which more favourable conditions are attached, or by granting operating subsidies or aid to related sectors, tend to disperse the effects of the actions undertaken and risk a distortion of competition;

Whereas it is in the Community interest to aim at a structural development of a fleet of vessels, registered in Member States' registers but also identifiable as ships serving Community needs, which comply with the standards of the maritime conventions, and whose crew includes as a minimum a specified number of trained seafarers from Member States;

Whereas it is in the Community interest to aim at a structural development of a fleet of vessels, registered in Member States' registers but also identifiable as Community vessels which meet the standards laid down by international maritime conventions and to man these vessels, to the highest possible proportion, with Community seafarers;

Whereas this aim cannot be attained without a reduction of the cost level;

Unchanged

Whereas the Commission has developed guidelines for the examination of State aids to be given by the Member States to Community shipping companies;

Unchanged

Whereas the establishment of a Community ship register should serve the purpose of creating a channel through which national efforts can be converged, a pool of Community seafarers and a trade mark guaranteeing shippers a high quality service;

Whereas the establishment of a Community ship register should serve the purpose of creating a channel through which national efforts can be converged, a focus for the employment of Community seafarers, and a trade mark guaranteeing shippers a high quality service;

Whereas the Community ship register will be additional to the national register;

Whereas the Community ship register will be additional to the national register and

should be introduced
without delay in order to
discourage the trend towards
setting up secondary registers;

Whereas the right to register
vessels in the Community register
should be reserved for natural and
legal persons having a certain link
with the Community; whereas,
however, this right should also be
given under certain conditions to
persons having a link with a given
third country;

Whereas the right to register
vessels in the Community register
should be reserved for natural
and legal persons having a genuine
link with the Community; whereas,
however, this right should also be
given under certain conditions and
terms to persons who have a
genuine link with third
countries;

Whereas the vessel to be registered
in the Community register should
comply with certain conditions;
whereas, in particular, the vessel
should be and remain registered in
a national register; whereas the
decisions on the admission to the
national register must be taken in
compliance with the provisions of
the Treaty;

Unchanged.

Whereas registration in the
Community register should depend on
compliance with the safety measures
required by the international
conventions in this respect;

Whereas registration in, and
continued membership of, the
Community register should depend
on compliance with the safety
measures required by the
international conventions in this
respect and any rules in respect
of vessels, personnel and seamen
established at Community level;

Whereas the number of trained
seafarers from Member States on
board vessels registered in
this register should be sufficient
to meet future requirements of the
Community fleet;

Whereas the number of qualified
seafarers from Member States on
board vessels registered in
this register should be
sufficient to meet present and
future requirements of the
Community fleet, bearing in mind
that in order to ensure
passengers' safety and to
safeguard employment among
seafarers of the Member States,
the crews of passenger vessels and
ferries operating in European
waters must consist entirely of
Community seafarers;

Whereas seafarers from non-Community
countries on vessels registered in
this register should be employed on
conditions in conformity with
internationally agreed standards
unless otherwise mutually agreed
with their representative

Whereas seafarers from non-
Community countries on vessels
registered in this register should
be employed on conditions which
have been agreed on by their
representative organizations and,
in the absence of such an

organizations;

agreement, on conditions which
comply with internationally agreed
standards;

Whereas in order to ensure uniform
crew composition for each category
of vessel and degree of
automation, in view of the
substantial divergences that exist
between national legislations on
this matter, guidelines for the
composition of the crews of
vessels registered in EUROS must
be laid down by the Commission on
the basis of the principles set
out in Resolution A 481 (XII) of
the International Maritime
Organization and ILO Convention
147 concerning minimum standards
in merchant shipping which are
internationally recognized and
accepted;

Whereas all seafarers on vessels
registered in this register should at
least benefit from the social security
schemes to which they are entitled in
the country where they are resident;

Unchanged.

Whereas vessels, while remaining on
this register, should be able to
transfer between the national
registers of Member States without
technical hindrance, when they comply
with the essential technical
requirements to be laid down by
the Council;

Unchanged.

Whereas the right of free movement
under Article 48 of the Treaty as
implemented by Council Regulation
1612/68 applies to employment of
nationals of Member States on board
vessels registered in the Member
States; whereas therefore this right
applies to vessels registered in
EUROS; whereas, however, the effective
exercise of that right may be
hindered by differences between
qualifications and licences issued in
the Member States; whereas it is
appropriate to provide for recognition
of such qualifications and licences
for seafarers for the purposes of
employment on board vessels in the
Community register subject to minimum
requirements laid down by the Council;

Unchanged.

Whereas registration in this
register should be reflected in the

Whereas registration in this
register should be reflected in

right and obligation to fly the European flag;

the right and obligation to fly the European flag which should be afforded a similar degree of protection to that enjoyed by the flags of Member States and third countries;

Whereas the Commission should be enabled to adopt implementing provisions concerning the establishment of the register and concerning procedures of registration and deregistration;

Whereas the Commission should, in application of the provisions of this regulation, be enabled to adopt implementing provisions concerning the establishment of the register and concerning procedures of registration and deregistration;

Whereas there should be cooperation between the Community register and the national ship registers, including an exchange of information;

Unchanged.

Whereas the Member States should take the necessary measures to control and enforce compliance with the provisions of this Regulation;

Unchanged.

Whereas the Commission will report annually to the European Parliament and Council on the number of vessels registered in the Community register and the number of Community seafarers employed in those vessels, thus enabling the effectiveness of this regulation to be assessed, and whereas the Commission will if necessary propose any modifications and improvements required;

HAS ADOPTED THIS REGULATION :

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SECTION 1 : Scope of the Regulation

Article 1 - Objective

Unchanged.

This regulation provides for:
- the establishment of a Community ship register for sea-going merchant vessels;
- the conditions for registration;
- certain facilities accruing from such registration;
- the right to fly the European flag on these vessels in addition to the national flag.

This regulation provides for:
- the establishment of a Community ship register for sea-going merchant vessels;
- the conditions for registration;
- certain facilities accruing from such registration;
- the flying of the European flag on these vessels in addition to the national flag;

Community or shipping companies established outside the Community and controlled by nationals of a Member State, if the vessels owned or operated by them are registered in that Member State in accordance with its legislation.

or of a third country in which nationals of Member States participate by more than 50 % or are company shareholders controlling more than 50 % of the overall company capital.

2. For the purpose of this regulation, a natural or legal person mentioned in paragraph 1 will hereafter be referred to as a "Community vessel owner";

For the purpose of this regulation, a natural or legal person mentioned above will hereafter be referred to as a "Community vessel owner";

3. Where it has been agreed between a third country and the Community that registration of vessels in each other's register shall be permitted, the term "nationals of the Member States" shall, for the purposes only of paragraph 1(a) and (b), include nationals of the third country concerned.

2. Where it has been agreed between a third country and the Community that registration of vessels in the register of that third country and in EUROS shall be permitted, the term "nationals of the Member States" shall, for the purposes of paragraph 1(a) and (b), include nationals of the third country concerned.

Article 4 - Vessels eligible for registration

Unchanged.

Eligible for registration in EUROS is any sea-going merchant vessel of at least 500 grt, built or under construction, which is already registered in a Member State, and entitled to fly the flag of that Member State and used or to be used in national or international trade for the transport of cargo or passengers or any other commercial purpose, if it fulfils the following conditions:

Eligible for registration in EUROS is any sea-going merchant vessel with a tonnage of at least 500 grt, built or under construction, which is already registered in a Member State and is used or to be used for the transport of cargo or passengers or any other commercial purpose, if it fulfils the following conditions:

(a) the vessel must be and remain registered in the national ship register for the duration of its registration in EUROS;

(a) the vessel must be and remain registered in the national ship register for the duration of its registration in EUROS;

(b) the vessel must be owned and for the duration of its registration in EUROS remain owned by the person entitled to register a vessel in EUROS, or operated by a Community vessel owner on the basis of a bare-boat charter in accordance with the provisions of

(b) the vessel must be owned, and for the duration of its registration in EUROS remain owned, by a Community vessel owner;

Article 5;

(c) the vessel shall not be more than 20 years old.

(c) the vessel shall not be more than 20 years old at the time of its registration in EUROS unless it has been completely refurbished and certified by a Member State as complying with the regulations for new ships defined in the 1974 SOLAS Convention.

Article 5 - Registration

1. The Community vessel owner shall apply to the Commission for the registration of a vessel in EUROS. He shall submit this application either directly to the Commission or through the competent national authorities which shall forward the application to the Commission.

This application shall be accompanied by:

(a) A certificate of ownership of the vessel issued by the national registration authority;

(b) The measurement certificate of the vessel;

(c) A certified copy of the vessel's certificate of nationality;

(d) If the vessel is mortgaged, a written statement by the mortgage creditors that they consent to the registration of the vessel in EUROS.

The Commission may stipulate other documents or certificates that must be submitted in order for a vessel to be registered in EUROS.

2. Registration in EUROS shall be completed when the following data is recorded

in the relevant entry of the vessel:

- (a) the name or title of the Community vessel owner and his or its other particulars;
- (b) the name, the international call letters, the dimensions the gross and net register tonnage, the type and power of the engine and the age of the vessel;
- (c) the type of the vessel, its number and port of national registration.

The Commission may also lay down other data concerning the vessel which must be recorded in EUROS.

3. The following data shall also be recorded in the register:
 - (a) changes of ownership or national flag of the vessel;
 - (b) the deregistration of the vessel.
4. Third parties shall be entitled to receive information of the data concerning a vessel registered in EUROS on payment of a reasonable fee.

Article 6 - Notification

1. Where a vessel is registered in or deregistered from EUROS the Commission shall notify its national registration authority.
2. Where, for any reason, a vessel is deregistered from the national register, the national register authority shall immediately notify the Commission.

Article 7 - Certificates and documents of vessels

The following certificates or documents must be kept on board the vessel for the entire duration of its registration in EUROS:

- (a) The certificates or documents which the vessel is required to have on board under the legislation of the Member State in whose national register the vessel is registered;
- (b) The certificate granting the right to fly the European flag;
- (c) The certificate of minimum crew composition;
- (d) The "sea-worthiness" certificate issued by a Member State in whose register the vessel is registered.

Article 8 - Deregistration

1. A vessel registered in EUROS shall be deleted:
 - (a) by the Commission, acting ex officio, where the vessel ceases to comply with the provisions of this regulation or,
 - (b) by an application from the Community vessel owner.
2. The deletion of a vessel from the national register of a Member State and its registration in the national register of another Member State at the same time, shall not affect its registration in EUROS.

Article 5 - Bare-boat charters

Vessels operated by Community vessel owners on the basis of a bare-boat charter may be registered

Article 9 - Bare-boat charters

Vessels operated by Community shipowners on the basis of a bare-boat charter for a period of

in EUROS during the period of that charter if the following conditions are fulfilled:

1. the vessel is registered as a bare-boat chartered vessel in a national ship register of a Member State;
2. the laws of the vessel's initial flag country allow bare-boat registration in another country;
3. the consent of the owner of the vessel and of all mortgage creditors for the registration of the bare-boat is obtained; and
4. the bare-boat charter is duly recorded in the register of the vessel's initial flag country.

at least twelve months may be registered in EUROS during the period of that charter if the following conditions are fulfilled:

1. the vessel is registered as a bare-boat chartered vessel in a national ship register of a Member State;
2. the laws of the vessel's initial flag state allow the registration of a bare-boat chartered vessel in the national register of a Member State;
3. the consent of the owner of the vessel and of all mortgage creditors for the registration of the bare-boat in EUROS is obtained; and
4. the bare-boat charter has been duly recorded in the register of the vessel's initial flag state.

SECTION 3: Safety, manning and crew

Article 6 - Safety

Throughout the period of registration the vessel must be provided with all certificates required by the Member State concerned.

Article 10 - Safety

Throughout the period of registration the vessel must be provided with all certificates required by the Member State in whose national register it is registered.

Article 11 - Manning

1. Guidelines concerning the manning of vessels registered in EUROS shall be laid down by the Commission on the basis of the principles set out in Resolution No.A 481 (XII) of 19.11.1981 of the Assembly of the International Maritime Organization (IMO), after consultation with the Joint committee on maritime transport and Member States. The Commission shall adopt the guidelines within the time limit mentioned in

Article 24.

2. The Commission shall include in the guidelines provisions ensuring that insofar as requirements concerning safe manning are met and the necessary automatation exists, seafarers with multiple qualifications certificates may be employed, provided that specific reference is made to this fact in the minimum manning certificate.
3. Member States shall issue minimum manning certificates in conformity with paragraphs 1 and 2 and shall deliver them to the persons requesting the registration of a vessel in EUROS. The Member State shall specify in the minimum manning certificate a language or languages as the language or languages of the crew.
4. At the request of the Community vessel owner concerned or seafarers employed on the vessel who consider that the minimum manning certificate issued by a Member State is not in conformity with the guidelines laid down by the Commission, the Commission will carry out an investigation and will take a decision after consultation with the Member State concerned. The Commission will take the decision within two months of the date of request.
5. The decision of the Commission shall lay down the minimum manning scale of the vessel. The Member State concerned shall issue immediately a new certificate in conformity with the Commission decision.
6. The national authorities shall monitor compliance with

the provisions of the minimum manning certificate and impose sanctions where appropriate.

Article 7 - Nationality of crew

On vessels registered in EUROS all officers and at least half of the rest of the crew shall be nationals of a Member State.

Trainees do not count towards meeting the requirements above.

Article 12 - Nationality of crew

1. On vessels registered in EUROS all officers and at least half of the rest of the crew referred to in their minimum manning certificates shall be nationals of a Member State.

Trainees do not count towards meeting the requirements above.

2. In particular, passenger vessels or ferries registered in EUROS which operate regular lines for passengers or vehicles between the ports of the same Member State or between (1) Mediterranean ports or (2) North Sea and Baltic ports or (3) European Atlantic ports or operate cruises with embarkation and disembarkation at any of the above ports, all the officers and the remaining crew referred to in the minimum manning certificate of vessels shall be nationals of the Member States.

Article 13 - Availability of seafarers

1. The Member States shall provide for monitoring on a permanent basis of the availability of seafarers who are nationals of Member States in their ports, and make the information so obtained available to interested parties.
2. Where seafarers who are nationals of the Member States are not available for employment in a vessel registered in EUROS that lies in the port of a Member State, under the terms and

conditions of the collective wage agreements concluded with their representative organizations, the Member State may grant permission to the master of the vessel to sail on the forthcoming voyage with fewer seafarers who are nationals of the Member States than those provided in Article 12.

Article 8 - Wages, working hours and further labour conditions

Wages, working hours and further labour conditions of seafarers, who are not nationals of a Member State, on board vessels registered in EUROS, shall be in accordance with the ILO Wages, Hours of Work and Manning (Sea) Recommendation (No. 109), 1958, subject to any arrangement on collective wages agreed upon with organizations as referred to in Article 9.

Article 9 - Collective wage agreements

1. If Community vessel owners who have registered the vessels which they own or operate in EUROS employ seafarers who are not nationals of a Member State such seafarers may be employed only on the basis of collective wage agreements concluded with trade unions or similar organizations of the country where they are resident.

Article 14 - Wages, working hours and further labour conditions

1. Labour conditions and working hours of seafarers, who are not nationals of a Member State, on board vessels registered in EUROS, shall be in accordance with the laws and regulations of the Member State in whose national register the vessel is registered and the Community regulations if any.
2. Wages and any other remuneration of seafarers who are not nationals of a Member State on board vessels registered in EUROS shall be at least in accordance with the ILO Wages, Hours of Work and Manning (Sea) Recommendation (No.109), 1958, subject to any arrangement on collective wages agreed upon with organizations as referred to in Article 15.

Article 15 - Collective wage agreements

1. Seafarers who are not nationals of a Member State may be employed only on the basis of collective wage agreements concluded with trade unions representing the above seafarers.

2. No collective wage agreement may be concluded with a foreign trade union or similar organization on behalf of nationals of a third country if such trade union or organization does not satisfy the conditions of ILO Convention No. 87 concerning the freedom of association and protection of the right to organize.

3. The law of the Member State of registration of the vessel or, if explicitly referred to in the agreement, any other Member State, shall apply to such collective wage agreements. The courts of the Member State concerned shall be competent to hear and determine disputes arising out of such agreements.

2. No collective wage agreement may be concluded with a trade union on behalf of nationals of a third country if such union does not satisfy the conditions of ILO Convention No. 87 concerning the freedom of association and protection of the right to organize.

3. The law of the Member State of registration of the vessel or, if explicitly referred to in the agreement, any other Member State, shall apply to such collective wage agreements. The courts of the Member States, shall be competent to hear and determine disputes arising out of such agreements and from individual labour contracts drawn up in accordance with and in implementation of such a collective wage agreement.

4. Collective agreements must not contain discriminatory rules, based on sex.

Article 10 - Social security

Without prejudice to Article 13(2)(c) of Council Regulation (EEC) No. 1408/71 and unless otherwise mutually agreed at the level of governments or social partners, social security for seafarers on board vessels registered in EUROS shall be the responsibility of the country in which the seafarer is resident unless the legislation of that country expressly provides otherwise, in which case the Member State of registration shall be responsible but in accordance with the legislation of the country of residence.

For the purpose of this provision residence means residence on shore

Article 16 - Social security

Without prejudice to Article 13 (2) (c) of Council Regulation (EEC) No. 1408/71 and in the absence of a contrary agreement at the level of governments or social partners, social security for seafarers on board vessels registered in EUROS shall be the responsibility of the country in which the seafarer has his usual residence unless the legislation of that country expressly provides otherwise, in which case the Member State in whose national register the vessel is registered shall be responsible but in accordance with the legislation generally applicable to seafarers of the country of usual residence.

Unchanged

and employment on board a vessel registered in a Member State shall not, of itself, be considered as being residence in that State.

Article 11

Articles 8, 9, and 10 shall apply subject to any right conferred or obligations imposed by any other Community legislative act except where such act expressly provides otherwise.

Article 17

Articles 14, 15 and 16 shall apply subject to any right conferred or obligations imposed by any other Community legislative act except where such act expressly provides otherwise.

SECTION 4: Facilities attached to registration in EUROS

Article 12 - Transfer of vessels

Any vessel registered in EUROS and having valid certificates and classification and meeting the essential technical requirements to be laid down by the Council according to the provisions of the Treaty before 1 July 1991, may be transferred to the register of another Member State without the imposition of additional technical requirements.

Article 18 - Transfer of vessels

Any vessel registered in EUROS and having valid certificates and classification and meeting the essential technical requirements to be laid down by the Council according to the provisions of the Treaty before 31 December 1991, may be transferred to the register of another Member State without the imposition of additional technical requirements.

Article 13 - Recognition of seafarers' qualifications

The qualifications and licences of seafarers who are nationals of a Member State shall be recognised by the competent authorities of each Member State for the purposes of employment on any vessel registered in EUROS, subject to minimum requirements for professional training and experience in the function concerned as required in Directives adopted or to be adopted by the Council, according to the provisions of the Treaty, before 1 July 1991.

Article 19 - Recognition of seafarers' qualifications

The qualifications and licences of seafarers who are nationals of a Member State shall be recognised by the competent authorities of each Member State for the purposes of employment on any vessel registered in EUROS, subject to minimum requirements for professional training and experience in the function concerned as required in Directives adopted or to be adopted by the Council, according to the provisions of the Treaty, before 31 December 1991.

SECTION 5: European flag, port of registration

Article 14 - European Flag

1. Vessels registered in EUROS are entitled and obliged to fly the European flag in addition to their national flag.
2. Upon registration a certificate conveying the right to fly the European flag will be delivered by the Commission to the applicant for registration.

Article 15 - Port of registration

A vessel registered in EUROS shall bear a relevant identification on its stern under the name of the port of registry in its national register.

Article 20 - European Flag

1. Unchanged.
2. Unchanged.

Article 21 - Port of registration

A vessel registered in EUROS shall bear a relevant identification on its stern under the name of the port of registry in its national registration.

Article 22 - Rights in rem

Where a vessel flies the European flag this shall not affect the rights in rem and maritime liens on this vessel and/or matters of public, administrative or criminal law which shall continue to be governed by the laws of the national flag Member State.

Article 23 - Calculation of the age of a vessel

For the purpose of this Regulation the age of a vessel shall be calculated from the first of January of the year following the year in which the vessel was delivered by the shipyards ready for commercial use.

Article 16 - Implementing measures

The Commission shall, within six months after the adoption of this regulation, adopt the necessary implementing measures concerning the establishment of EUROS, the procedures for registration and deregistration, the form and content of the documents concerned, including the certificate concerning the

Article 24 - Implementing measures

The Commission shall, within six months after the adoption of this regulation, adopt the necessary implementing measures concerning the establishment and functioning of EUROS, the procedures for registration and deregistration, the system for monitoring compliance with the provisions of this regulation and the

right to fly the European flag, the form of, and rules governing the flying of, the flag, and the identification of vessels on the register.

sanctions in case of failure to observe them and lay down the form and content of the documents concerned, including the certificate concerning the right to fly the European flag, the form of, and rules governing the flying of, the flag, and the minimum manning certificate.

Article 17 - Cooperation

1. National authorities and the Commission shall assist each other in applying this Regulation and in checking compliance therewith.

2. Within the framework of this mutual assistance they shall communicate to each other the necessary information with respect to registration and deregistration.

Article 25 - Cooperation

Unchanged.

2. Within the framework of this mutual assistance they shall communicate to each other the necessary information.

Article 18 - Transitional period

1. Member States shall, within six months after the adoption of this Regulation and after consultation with the Commission, take the necessary measures to:

- organize effective controls to ensure compliance with the requirements laid down in Sections 2, 3 and 5;

- impose sanctions in case of non-compliance with those requirements;

- enable vessels registered in EUROS to exercise the right to fly the European flag.

2. Such measures shall make express reference to this Regulation.

Article 26 - Transitional period

1. Member States shall, within twelve months of the adoption of this Regulation and after consultation with the Commission:

(a) adopt measures to protect the European flag and take the necessary measures to enable those vessels registered in EUROS to exercise their right to fly it;

(b) take the necessary measures effectively to control compliance with the relevant provisions of Sections 2, 3 and 5 of this Regulation and of the decisions implementing these provisions which shall be issued by the Commission and to introduce the procedure for imposing sanctions.

Unchanged.

3. Member States shall forthwith communicate to the Commission the measures adopted.

Unchanged.

Article 27 - Reports and review

The Commission shall make an annual report to the European Parliament and Council, beginning on 1 July 1993, on the number of vessels registered in EUROS and the composition of their crews. It shall also propose to the Council any amendments to this Regulation which may be required.

Article 28

By 31 December 1995 at the latest the Council shall decide on a review of this Regulation on the basis of a proposal from the Commission which shall be submitted by 1 July 1995.

Article 19 - Entry into force

This Regulation shall enter into force on 1 January 1991.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Article 29 - Entry into force

This Regulation shall enter into force on 1 January 1992

Unchanged

Amended proposal for a Council Regulation
on a common definition of a Community shipowner
(Submitted by the Commission pursuant to Article 149(3)
of the EEC Treaty)

INITIAL PROPOSAL	AMENDED PROPOSAL
<p>THE COUNCIL OF THE EUROPEAN COMMUNITIES,</p> <p>Having regard to the Treaty establishing the European Economic Community, and in particular Article 84(2) thereof,</p> <p>Having regard to the proposal of the Commission,</p> <p>Having regard to the opinion of the European Parliament,</p> <p>Having regard to the opinion of the Economic and Social Committee,</p> <p>Whereas the development of the single market makes it desirable to affirm the identity of the Community also in the field of sea transport services;</p> <p>Whereas to an increasing degree Community legislation refers to Community shipowners and there should be a common view on the identity of such a shipowner;</p> <p>Whereas it is desirable to distinguish between companies owned by nationals of a third country or the majority of whose board consists of nationals of such a country and those which are owned or managed by Community nationals, taking into account that the former may themselves have acquired the same status as companies of the Member States by their establishment in a Member State;</p>	<p>THE COUNCIL OF THE EUROPEAN COMMUNITIES,</p> <p>Visas unchanged.</p> <p>Unchanged.</p> <p>Unchanged.</p>

Whereas such a distinction can be achieved by defining as Community shipowners those nationals of a Member State who have a significant economic link with a Member State;

Unchanged.

HAS ADOPTED THIS REGULATION:

HAD ADOPTED THIS REGULATION:

Article 1

This Regulation lays down criteria establishing a common definition of a Community shipowner.

Article 1

Unchanged.

Article 2

Unless otherwise stated, all references to "Community shipowner", in regulations, directives and decisions of the Council are to be interpreted in accordance with Articles 3 and 4.

Article 2

Unchanged.

Article 3

For the purpose of this Regulation "a shipowner" means:
a natural or legal person providing a liner or tramp service in the field of maritime transport of passengers or goods by one or more sea-going vessels which he or it owns or has chartered on the basis of a bare-boat charter, time charter or voyage charter.

Article 3

Unchanged.

Article 4

The following shipowners are regarded as Community shipowners:

Article 4

The following shipowners are regarded as Community shipowners:

- 1a a national of a Member State, who has his domicile or usual residence in a Member State;
- 1b a shipping company or firm which is formed in accordance with the law of a Member State and which complies with the following requirements:
 - (i) the principal place of business is situated and the effective control exercised in a Member State and

- 1a a national of a Member State, who has his domicile or usual residence in a Member State;
- 1b a company or firm which is formed in accordance with the law of a Member State and which complies with the following conditions:
 - (i) the principal place of business is situated and the effective control exercised in a Member State and

(ii) the executive board consists of persons the majority of whom are nationals of a Member State or the majority of shares are owned by nationals of a Member State having their domicile or usual residence in a Member State;

(ii) a majority of the members of the board or of the directors are nationals of Member States having their domicile or usual residence in the Community or in which nationals of Member States participate by more than 50 % or are company shareholders controlling more than 50 % of the overall company capital

2a a national of a Member State who has his domicile or usual residence outside the Community if his vessels are registered in that Member State in accordance with its legislation;

2a a national of a Member State who has his domicile or usual residence outside the Community if he is the owner of a vessel registered in a Member State in accordance with its legislation;

2b a shipping company or firm established outside the Community and controlled by nationals of a Member State if its vessels are registered in that Member State in accordance with its legislation.

2b a company or firm formed in accordance with the law of a third country in which nationals of Member States participate by more than 50 % or are shareholders controlling more than 50 % of the overall company capital provided that it is the owner of a vessel registered in a Member State in accordance with its legislation.

Article 5

This Regulation shall enter into force on 1 January 1990.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Article 5

This Regulation shall enter into force on 1 July 1991.

Unchanged.

Amended proposal for a Council Regulation

applying the principle of freedom to provide service to maritime
transport within Member States

(Submitted by the Commission pursuant to Article 149(3)
of the EEC Treaty)

INITIAL PROPOSAL

AMENDED PROPOSAL

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty
establishing the European Economic
Community, and in particular
Article 84 (2) thereof,

Visas unchanged.

Having regard to the proposal of
the Commission,

Having regard to the opinion of
the European Parliament,

Having regard to the opinion of
the economic and Social Committee,

Whereas the principle of freedom
to provide services does not yet
apply to maritime transport within
the Member States;

Unchanged

Whereas it is important to adopt
measures with the aim of progressively
establishing the internal market over
a period expiring on 31 December 1992;
whereas the internal market shall
comprise an area without internal
frontiers in which the free movement
of goods, persons, services and
capital is ensured;

Unchanged

Whereas the creation of an internal market which covers an area without internal frontiers will have to take into account the principles of the Treaty with regard to the raising of the standard of living including the improvement of the employment opportunities for workers;

Whereas in accordance with Article 61 of the Treaty freedom to provide services in the field of maritime transport is to be governed by the provisions of the Title relating to transport;

Unchanged

Whereas the abolition of restrictions on the provision of maritime transport services within Member States is necessary for the establishment of the single market;

Unchanged

Whereas therefore the principle of freedom to provide services should be applied to maritime transport within Member States;

Unchanged

Whereas this freedom should be subject to conditions in respect of the vessels used to provide the services, so as to ensure a degree of approximation of operating conditions among the persons and companies providing such services;

Unchanged

Whereas the introduction of public services entailing certain rights and obligations for the shipowners concerned may be justified in order to ensure regular transport services on certain links, provided that there is no distinction on the grounds of nationality or residence;

Whereas such conditions are fulfilled by ships registered in the Community ship register established by Council Regulation (EEC) No... and used in short-sea trades;

HAS ADOPTED THIS REGULATION:

HAS ADOPTED THIS REGULATION:

Article 1

Article 1

1. Restrictions on freedom to provide maritime transport services within Member States shall be abolished in respect of Community shipowners who are established in a Member State of the Community other than that of the person for whom the services are intended when using vessels registered in the Community ship register and not exceeding 6000 grt.

1. Restrictions on freedom to provide maritime transport services within Member States shall be abolished in respect of the Community shipowners referred to in Article 4 of Regulation No. on a common definition of a Community shipowner where, in providing these services, they exclusively use vessels registered in the Community ship register not exceeding 6000 grt, provided that these vessels are allowed to operate in services, if any, within the State where they are registered.

2. The provisions of this Regulation shall also apply to nationals of the Member States established outside the Community and to shipping companies established outside the Community and controlled by nationals of a Member State, if their vessels are registered in that Member State in accordance with its legislation and in the Community ship register and not exceeding 6000 grt.

Deleted

3. For the purposes of this Regulation, services shall be considered as "maritime transport services" where they are normally provided for remuneration and shall in particular include:

Unchanged

(a) the carriage of passengers or goods by sea between ports in any one Member State, including overseas departments of that State (cabotage);

(b) the carriage of passengers or goods by sea between any port in a Member State and installations or structures on the continental shelf of that Member State (off-shore supply services).

4. The Member State between whose ports the maritime transport services are provided may require that the vessels used for these services are manned with nationals of the Member States to the same degree as is required in respect of the vessels flying its own flag which are used for these services.

4. The Member State between whose ports the maritime transport services are provided may require that vessels used for these services are manned with nationals of the Member States to the same degree as is required in respect of the vessels flying its own flag which are used for these services and that they shall have similar training to that required of its nationals employed therein.

Article 2

1. Notwithstanding Article 1(1) and (2), a Member State may, where necessary in order to maintain sufficient maritime transport services in the case of cabotage between the mainland and its islands and between its islands, impose public service obligations as a condition for the right to provide the service.

2. For the purpose of this Regulation the law, regulations or administrative conditions imposed by Member States aiming to guarantee the continuity, regularity and efficiency of the services, and the provision of goods of fundamental importance for the economic wellbeing of such territories shall be considered as public service obligations.

Article 2

Unchanged

Article 3

1. In the event of severe market disruption or serious imbalances between supply and demand in a given geographical area, the Commission shall, either on its own initiative or at the request of a Member State, adopt safeguard measures with a view to appropriately redressing the situation.

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