

COMMISSION OF THE EUROPEAN COMMUNITIES

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AMENDMENTS TO THE PROPOSAL FOR A COUNCIL REGULATION
ON THE HARMONIZATION OF CERTAIN SOCIAL PROVISIONS
RELATING TO GOODS TRANSPORT BY INLAND WATERWAY

(submitted to the Council by the Commission pursuant
to the second paragraph of Article 149 of EEC Treaty)

COM(79) 363 final

EXPLANATORY MEMORANDUM

I. General considerations

On 17 September 1975 the Commission forwarded a proposal to the Council on the harmonization of certain social provisions relating to transport of goods by inland waterway (1).

The European Parliament issued an opinion on this proposal at its session of 7 February 1977(2) calling upon the Commission to embody the suggested changes in its proposal. The opinion of the Economic and Social Committee has been known since 26 January 1977 (3).

The - often significant - social and economic problems associated with the proposed Regulation led to detailed and thorough discussions in both the European Parliament and the Economic and Social Committee. The results of these discussions, which also took account of new ideas, called for a number of changes, which were expressed in the respective opinions. The Commission feels able to meet most of the requests for change formulated by both bodies, since the aims of its proposal are not affected; on the contrary, the proposal is thereby improved on a number of points.

Accordingly, the Commission is proposing changes to its original proposal, in accordance with Article 149² of the EEC Treaty. A number of points involve purely technical alterations and clarifications. In other cases the substance of the proposed provisions has also been changed.

It should be noted that, in the discussions in the European Parliament and in the Economic and Social Committee, the problems of the economic implications were again discussed extensively. These discussions were assisted by a cost analysis of the proposed Regulation, carried out on behalf of the Commission by "Interfides" (a firm of accountants and auditors). The main recommendations to emerge from the discussions were a more flexible approach to the idea of spreadover, time spent at the helm, and the daily rest periods, in an attempt to take fuller account than hitherto of the various interests represented.

(1) OJ C 259, 12 November 1975, p. 2
(2) OJ C 57, 7 March 1977, p. 9
(3) OJ C 61, 10 March 1977, p. 29

As regards the employment of women as crew members, it should be recalled that the Council Directive of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions came into force on 12 August 1978. This means that the rules of the Regulation on Inspection of Shipping on the Rhine of 1 April 1976 are incompatible with Community law : in the light of the Directive, these rules are a barrier to recruiting and discriminate against women. They include :

- Limitation of the number of women employed as crew members ;
- a reference to women's work in the inspection certificates issued by the inspection committees ;
- sex-based exceptions with regard to the age-limits and qualifications required for each job on board ;
- the requirement for women to wear "suitable clothing" at work ;
- the prohibition on the employment of women when the vessel does not have separate cabins, toilets and washrooms for male and female crew members ;
- the prohibition on work as crew member where the rudder cannot be activated effortlessly by one person and where the rigging is difficult to handle ;
- the prohibition slipping and paying out heavy towing cables.

In accordance with Article 234 of the Treaty, the incompatibility between these provisions and the Directive referred to above should in any case be made the subject of negotiation as provided for under Article 2 of this Regulation.

Provision should also be made for the harmonization, where appropriate, of the rules that might be required for certain working conditions specific to river traffic and likely to have a physiological effect on the health of workers, whether male or female (e.g. substances carried, particularly harmful vibrations, etc.).

With a view to the above mentioned existing directive, Article 8 of the original proposal can be deleted.

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II. Special considerations

Article 1 (definitions)

A number of ^{purely} technical additions and clarifications have been made to this Article.

Article 2 (scope)

The wording of this Article has been made even more explicit, to make it quite clear that Community provisions will be applied in principle to all crews of vessels registered in non-member countries according to the territoriality principle; the only restrictions to this appear in the case of Switzerland because of the special commitments arising from the current arrangements applicable to Rhine navigation.

Comments on Article 3 (negotiation with non-member countries) which is unchanged

The suggestion that any negotiations - which may be considered desirable or necessary - by the Community with non-member countries be made dependent upon consultation of the Central Commission for Navigation on the Rhine, an organization in which a non-Community country (Switzerland) is represented, does not appear, on grounds of principle, to be unobjectionable. The Commission has therefore not incorporated the supplement suggested by Parliament into this Article. The Community will of course - and here the Commission is in complete agreement with Parliament - consult the Central Commission whenever appropriate or whenever the latter's interests are involved.

Article 4 (technical scope)

The amendments to this Article are purely technical additions.

Article 5 (requirements to be met by crew members)

These requirements have been made more stringent in certain respects, primarily at the request of the Economic and Social Committee, to bring them

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into line with the provisions in force for Rhine navigation. However, as a counterbalance and in the interests of a flexible and realistic solution, provision is made for derogations for boatmen and deckhands in respect of age and professional experience on certain ^{waterways} where less strict requirements are demanded.

Provision is now made for a minimum standard of training to be stipulated in a Community regulation, not only for boatmen and engineers, but also for deckhands.

Article 6 (crew members performing other duties in the event of danger)

In this context it is logical to ensure the safety of the crew.

Article 7 (composition of crews)

Extensive changes have been made to this Article at the European Parliament's request. The provision proposed hitherto under which the Rhine regime (Annex) is applied as a general text in conjunction with a system of possible national derogations will now hereby serve as a transitional provision (paragraph 1) until the Council, acting on a proposal by the Commission, adopts a more comprehensive final provision differentiated according to the characteristics of the waterways concerned. This final provision will be based on the arrangements now in force for Rhine navigation, and on experience of national derogations. The Commission is required to present the new proposals within five years, leaving the Council one more year in which to decide.

The procedure for exemptions in individual cases in the light of technical progress has been made somewhat stricter at the request of the European Parliament and the ESC.

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Article 8 (employment of women)

The reasons for which Article 8 is deleted have been set out in the "General considerations".

Article 9 (obligations in respect of the prescribed crew)

A technical addition has been made to this provision in accordance with Parliament's wishes.

Article 10 (spreadover)

The outcome of intensive discussions within the Economic and Social Committee on the question of spreadovers was to recommend that the original provisions be relaxed in some respects to make them more flexible. The proposed amendments to spreadovers are on the whole a reflection of the compromise achieved between all parties represented in the ESC and an attempt to confine the possible costs (based on the cost analysis made by "Interfides") of these provisions within acceptable limits. Parliament also devoted particular attention to this aspect, although it has not adopted a formal opinion on it.

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In the amended proposal the former average spreadover of twelve hours (daytime and semi-continuous sailing) has been changed to fourteen hours in summer (March to October) and twelve hours in winter (November to February). In exceptional circumstances (which are defined) these times may be exceeded by a maximum of two hours. As a result of the flexibility thus achieved, the maximum duty period of sixteen hours currently permitted on the Rhine may be achieved in individual cases. Any period beyond the maximum spreadover may be compensated either in kind or as leave and is governed by national provisions.

Article 11 (duration of work at the helm)

At the ESC's request the duration of work at the helm has been raised from four to six hours; however, a minimum break has been introduced.

Article 12 (duration of work at the radar screen)

The amended provision states that the limitations on the time spent at the radar screen will only apply to "instrument journeys", i.e. journeys when radar must be used because of weather conditions. It is also expressly stated that the radar screen may only be operated by authorized and competent persons.

The Commission will examine the extent to which the introduction of modern radar screens would enable a modification of the prescribed restrictions.

Article 13 (derogations in cases of danger, etc.)

As in article 6 it seems logical to ensure the safety of the crew.

Article 14 (daily rest periods)

The provisions governing daily rest periods have been amended in the light of the alterations made to spreadovers. The ban on nighttime sailing has been relaxed in accordance with the wishes of the Economic and Social Committee; now only six or eight hours of the daily rest period must be between 1800 hours and 0800 hours (daytime sailing) or six hours between 1900 hours and 0700 hours (semi-continuous sailing).

Article 16 (periodic rest days)

In inland waterway transport the crew often have to pass their time awaiting cargo. It is reasonable to consider this as a periodic rest day when the persons concerned are informed in advance enabling them to make arrangements in order to benefit from their free time.

Article 17 (annual leave)

For social reasons and reasons of competition (harmonisation of the total time spent at work during a year) the Commission cannot accept the suggestion of the Economic and Social Committee - to which Parliament did, however, not subscribe - that the provision governing leave for self employed boatmen be taken out of the proposal.

Article 18 (work in port)

The provision concerning work effected in port was introduced in order to take account of the request made by the Economic and Social Committee.

Article 19 (self-employed boatmen and rest days)

In order to ensure that the conditions for self-employed boatmen are, primarily for reasons of competition, sufficiently aligned on those of employed staff it seems appropriate to lay down an annual minimum number of rest days for self-employed boatmen (108 days) to replace weekly rest days, annual leave and public holidays. A minimum number of these days must be taken in the first six months of any year to ensure that they have the desired rest and relaxation. This amendment is endorsed in the Opinion of the Economic and Social Committee.

Article 20 (application of more favourable provisions)

Paragraph 1 and 2

The content of these provisions has been altered to make the situation regarding the treatment of crews of vessels from Member States and non-member countries completely clear.

Paragraph 3

The two-yearly report provided for will also be presented to the Economic and Social Committee at its request.

Article 21

It appears opportune to leave open the possibility of a community instrument which need not necessarily be a regulation.

Article 22

This article was amended to take account of a request made by the European Parliament.

Article 23

See comments on article 20, paragraph 3.

Article 24

In order to promote the harmonisation of penalties, which has been also requested by the European Parliament, a further paragraph in this sense has been added to the article.

Article 25 (new provision - former Article 25 becomes Article 26)

At Parliament's request it will be expressly laid down that the Commission must make suitable proposals to the Council for persons employed in inland waterway transport not later than five years after adoption of this Regulation.

Article 26 (former Article 25)

The amendments to the wording of this article are ^a result of the amendments to article 7.

Annex (composition of crews)

A technical amendment has been made to the Annex to take account of the latest version of the Regulation on the Inspection of Shipping on the Rhine of 1 April 1976 (Decision No 1975-I-23 of the Central Commission for Navigation on the Rhine).

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HARMONIZATION OF CERTAIN SOCIAL PROVISIONS RELATING TO
GOODS TRANSPORT BY INLAND WATERWAY
SUBMITTED BY THE COMMISSION TO THE COUNCIL IN ACCORDANCE
WITH ARTICLE 149(2) OF THE EEC TREATY

The recitals and articles in the original Commission proposal (1) are amended according to the following proposals, the new provisions being given in full:

1. The recitals

The fifth recital has been deleted.

The sixth recital now reads as follows:

" Whereas the Member States which are bound by the provisions of the international rules governing Rhine navigation must open negotiations with a view to eliminating the incompatibilities between these regulations and Community law."

A new recital is added after the sixth recital :

" Whereas Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (2) implies the absence of any discrimination based on sex, whether direct or indirect, particularly by reference to the matrimonial state or family position."

2. The Articles

a) Article 1 now reads as follows:

"For the purposes of this Regulation,

1. "spreadover" means the period between the termination and the commencement of two consecutive daily rest periods or between the termination of a daily rest period and the commencement of a directly-following periodic rest period or between the termination of such a rest period and the commencement of a directly-following daily rest period; during this period the crew must, in accordance with the existing provisions, be present on board the vessel".

(1) OJ No C 259 of 12 November 1975, p. 2

(2) OJ No L 39, 14 February 1976, p.40

" 2. unchanged ;

" 3. "mixed-duty day" means a day during which the crew carries out,
" either ship work, or work such as loading,
" unloading, maintenance or repairs and must remain on stand-by ;

" 4. "crew member" means boatman, helmsman, deckhand, ship's boy,
" engineer and deckhand/motorman ;

" 5. a) "daytime sailing" means sailing of a vessel whose crew composition
" corresponds to the provisions of
" column A in the tables set out in the Annex to the Regulation;
" b) "semi-continuous sailing" means sailing of a vessel whose crew com-
" position corresponds to the provisions of
" column B in the Annex tables set out in the Annex to the Regulation;
" c) "continuous sailing" means sailing of a vessel whose crew com-
" position corresponds to the provisions of
" column C in the tables set out in the Annex to the Regulation.

" 6. unchanged ;

" 7. unchanged ;

" 8. "daily rest period" means :

" in daytime sailing any uninterrupted period of at least 8 hours,
" in semi-continuous sailing any uninterrupted period of at least
" 10 hours, and in continuous sailing any uninterrupted period of
" at least 6 hours during which crew members dispose freely of their
" time and are free to move about within the limitations imposed by
" Community and national provisions in respect of crew composition
" and attendance ".

.../...

b) Article 2 now reads as follows :

- " 1. This Regulation shall apply to crew members of vessels using the
" waterways of Member States, except passenger vessels and vessels
" referred to in Article 4.
- " 2. During a transitional period expiring on the conclusion of the nego-
" tiations referred to in paragraph 3, this Regulation shall not
" apply to crews of vessels which :
- " - use waterways covered by the Regulation on Inspection of Shipping
" on the Rhine of 1 April 1976 and belong to undertakings which have
" their registered place of business on Swiss territory ;
 - " - are covered by the Agreement concerning the working conditions of
" Rhine boatmen of 21 May 1954 and belong to undertakings which have
" their registered place of business on Swiss territory.
- " 3. Member States which are bound by the ^{provisions of the} ~~regulations on navigation on~~
" the Rhine mentioned below shall forthwith start whatever negotiations
" are necessary by (18 months from the adoption of the
" Regulation), in order to
- " - modify, within the framework of the Central Commission for
" Navigation on the Rhine, the Regulation on
" Inspection of Shipping and Rafts on the Rhine of 1 April 1976,
" to eliminate from it all provisions which prove incompatible
" with the provisions of this Regulation or any other provisions
" of Community Law ;
 - " - modify the Agreement on conditions of work of Rhine boatmen
" of 21 May 1954 to eliminate from it all provisions which prove
" to be incompatible with the provisions of this Regulation or any
" other provisions of Community Law or, if necessary, denounce
" the Agreement".

.../...

c) Article 4 is amended as follows:

"This regulation shall not apply to the crew members of the following vessels:

- ferries;
- pontoons and floating devices incorporating mechanical apparatus but not used to transport goods;
- vessels of under 150 tonnes deadweight which are not tugs or pushers or other vessels used as such ;
- vessels which, coming from or returning to the sea, are using waterways for the sole purpose of being loaded or unloaded in a port situated thereon;
- fishing vessels used for fishing;
- vessels carrying suitable equipment and specially designed for providing immediate assistance in emergencies;
- official vessels of the inland waterway authority, the police force, the armed forces or the fire brigade, and all other public authority vessels;
- tugs and pushers used solely for assisting sea-going ships in ports;
- vessels used for towing at sea, provided they are not also used on inland waterways;
- vessels used exclusively for local loading and unloading operations in private ports attached to a particular company".

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d) Article 5 is amended as follows :

"1. Crew members must meet the following requirements :

a. The boatman

He must be at least 21 years of age. He must have at least five years' experience as a member of a deck crew at sea or on inland waterways, including at least three on inland waterways. The practical period of experience may be reduced by two years, when it appears that the person concerned has received full training as a boatman. The minimum standard for this training shall be laid down by the Council, acting on a proposal from the Commission, after the entry into force of this Regulation ;

b. The helmsman

He must be at least 19 years of age and have at least two years' experience as deckhand or deckhand/motorman on inland waterways;

c. The deckhand

He must be at least 17 years of age and have at least two years' experience as a member of a deck crew at sea or on inland waterways. The full period spent at an appropriate training school may be counted as experience. A minimum standard for this training shall be laid down by the Council, acting on a proposal from the Commission, after the entry into force of this Regulation.

d. The ship's boy

He must be at least 15 years of age.

e. The engineer

He must have at least three years' experience as deckhand/motorman, and a basic knowledge of engines. Engineer's training may be regarded as equivalent to this three years' experience. The minimum standard for this training shall be laid down by the Council, acting on a proposal from the Commission, after the entry into force of this Regulation.

f. The deckhand/motorman

He must have a basic knowledge of engines and at least one year's experience as deckhand on board sea or inland-waterway vessels equipped with mechanical means of propulsion.

2. The Commission may, at the request of a Member State and after consulting both sides of the industry, allow derogations from the provisions of paragraph 1 relating to minimum age and experience requirements for boatmen and deckhands on certain waters, if the particular navigation conditions obtaining so justify."

e) Article 6 now reads as follows:

" Where the safety of the crew, vessel or cargo is threatened any crew member may/be called upon to perform duties outside his normal work."
^{in case of danger}

f) Article 7 now reads as follows :

"1. The minimum requirements laid down in the Annex, which shall form an integral part of this Regulation, shall apply to the composition of crews for the various categories of vessel until adoption of the rules provided for in paragraph 2.

The Commission may, at the request of a Member State, authorize a derogation from the provisions of the Annex, under the conditions mentioned in the second sub-paragraph of paragraph 3.

No derogations may be made in respect of navigation on the Rhine. For the purposes of this Regulation, by "navigation on the Rhine" is meant navigation on the Rhine and its tributaries from the German-Swiss border to the open sea, including the Grand Canal d'Alsace, the Pannerden Canal, the Neder Rijn, the Lek, the Waal, the Nerwede, the Noord, the Nieuwe Maas, the Oude Maas, and the waters between the Nerwede and the ports on the Westerschelde.

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2. Not later than six years following the entry into force of this Regulation the Council shall, acting on a proposal from the Commission, lay down comprehensive rules governing the composition of crews for the various categories of vessels on the various categories of inland waterway concerned.

3. In preparing the rules provided for in paragraph 2, the Commission shall take as a basis the crew composition as laid down in the Annex to this Regulation, subject to such changes as may be necessary as a result of changes in the various categories of vessels and the particular navigation conditions for the individual waterways. Such changes must in particular fulfil the following conditions:

a. they must respect the safety regulations for movement on the waterways concerned and take account of the technical level of the equipment of the vessel in question;

b. they must enable the provisions of the present Regulation, and particularly, the provisions of Sections IV and V to be met;

c. they must not give rise to social conditions inferior to the existing level in the Member State or States concerned.

4. In preparing the rules referred to in the preceding paragraph the Commission shall consult with the Joint Advisory Committee on Social Questions arising in Inland Water Transport, with the Member States and, where necessary, with any body responsible for navigation on inland waterways within the Community.

5. After consultation with the two sides of the industry, the Member States may, in specific cases, authorize a reduction in the number of crew where a vessel is fitted with new technical equipment designed to take over specific functions of the prescribed crew. Member States shall report to the Commission on measures taken pursuant to this provision."

g) Article 8 is deleted.

h) Article 9 now reads as follows:

"1. Unchanged.

2. By way of derogation from the preceding paragraph, where one or more members of the prescribed crew is unable to work during a voyage because of exceptional and fortuitous circumstances, such as illness, accident or official instructions, then, in cases where speedy medical treatment is required for any such member of its crew or where there is a considerable danger to shipping, a vessel may nonetheless continue its voyage as far as the first place where it can tie up safely, or otherwise as far as the first place where it can moor and wait in safety."

i) Article 10 now reads as follows:

"1. For daytime sailing the daily spreadover shall not exceed:

- 14 hours in the period from March to October inclusive;
- 12 hours in the period from November to February inclusive.

"2. Unchanged

"3. The daily spreadover mentioned in section paragraph 1 and 2 may be extended by not more than 2 hours in special circumstances. Such special circumstances are deemed to exist if: - such extensions are required when negotiating a lock in order to avoid unreasonable losses of time;

- connections with sea-going ships might be missed without such an extension;
- an extension might serve to avoid excessive risks or damage when transporting perishable or dangerous substances.

Where in daytime sailing an extension of spreadover is made, another member of crew besides the boatman must meet the requirements in respect of boatmen. In all cases compensation shall be granted for the overtime worked, the nature and scope of this compensation to be laid down by the individual Member States in legal regulations or collective agreements.

4. In continuous sailing, the uninterrupted daily spreadover shall not exceed eight hours."

k) Article 11 now reads as follows:

"Continuous work at the helm shall not exceed six hours duration. This period must be followed by a break of at least 30 minutes."

l) Article 12 is amended as follows:

"The period for which a suitable, qualified crew member steers a vessel while simultaneously observing the radar screen, when conditions of visibility are such that the vessel has to be steered exclusively on radar, shall not exceed:

- seven hours per spreadover for daytime and semi-continuous sailing;
- seven hours out of any 24-hour period for continuous sailing.

Continuous observation of the radar screen shall not exceed two hours' duration and may only be resumed after an interval of at least 30 minutes."

Article 13 is amended as follows:

"Derogations from the provisions of Articles 10, 11, 12, 14 and 15 shall be permitted only in the following cases:

- a. (unchanged)
- b. in order to ensure the safety of the vessel, its crew or its cargo."

Article 14 is worded as follows:

"1. For daytime sailing, the daily rest period shall not be less than:

- 10 consecutive hours per 24-hour period from March to October inclusive, at least six hours of which must be taken between 6 p.m. and 8 a.m.
- 12 consecutive hours per 24-hour period from November to February inclusive, at least eight hours of which must be taken between 6 p.m. and 8 a.m.;

If the maximum duration of the spreadover is extended in accordance with article 10 (3), the minimum duration of the rest period must be correspondingly shortened.

2. For semi-continuous sailing, the daily rest period shall not be less than:

- 12 consecutive hours per 24-hour period, at least six hours of which must be taken between 7 p.m. and 7 a.m. If the maximum duration of the spreadover is extended in accordance with Article 10 (3), the minimum duration of the rest period must be correspondingly shortened.

3. For continuous sailing, the daily rest period shall not be less than:

- 12 hours per 24 hour period, at least six hours of which must be consecutive.

4. During the daily rest period, crew members may dispose freely of their time provided that their presence on board is not required under safety regulations issued by the police or other competent authority in this respect."

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a) Article 16 is worded as follows:

"1. Any crew member engaged in daytime sailing shall be entitled to at least 78 periodic rest days a year in lieu of weekly rest days. It must be possible for him to spend at least 39 of these days at home; at least ten periodic rest days shall be Sundays. The time spent waiting for cargo may be counted as periodic rest days, provided that the members of the crew are told by the employer beforehand and can spend such time as they wish.

2. Unchanged.

3. For daytime and semi-continuous sailing, any periodic rest period must begin not later than 8 p.m. It shall be calculated in complete periods of twenty-four hours, the first of which shall begin after a rest period of twelve hours following the last working day."

p) Article 18 is worded as follows:

"For loading and unloading duties performed by crew members in a port or other stopping place, local provisions on the duration of the spreadover and rest period shall apply if they lay down minimum or maximum standards which are more favourable to the crew members than those laid down in Sections IV and V."

q) Article 19 is amended as follows:

"1. Unchanged.

2. Self-employed boatmen must take 78 rest days per year, at least 40 of which are to be taken in the first six months of the year."

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r) Article 20 now reads as follows :

"1. Each Member State may, by way of derogation from the provisions of this
" Regulation, apply more stringent minimum requirements than those laid
" down in Articles 5, 6, 7, 8, 9, 14, 15, 16, 18 and 19 or lower
" maxima than those laid down in Articles 10, 11, 12 and 13
" in respect of crew member of vessels registered in its territory for
" that part of a journey involving an international transport operation
" effected within its territory or for such a journey involving a domestic
" transport operation.

" Each Member State may also require that, in international shipping
" operations, the crew members of the aforementioned vessels comply with
" these derogating rules for the duration of the entire journey.
"

"2. The abovementioned derogating provisions may also be applied to the
" crews of vessels registered in another Member State or in a third
" country provided that such vessels are engaged in internal transport
" operations in the Member State concerned.

" However, any derogating provisions adopted by the Member States
" concerned for their territory pursuant to the second subparagraph of
" Article 7 (1) shall apply in respect of the composition of crews.

"3. Every two years, the Commission shall present a report to the Council,
" the European Parliament and the Economic and Social Committee on deve-
" lopments concerning the matters governed by this Article."

s) Article 21 now reads as follows :

" In order to monitor observance of the prescribed provisions in the
" Member States, the Commission shall, at the appropriate time, lay
" down in a general regulation :

" a) a model for a logbook

" b) a model for an individual record book, together with the requisite
" rules for their use."

t) Article 22 is worded as follows:

"Each Member State shall designate the authorities which, in agreement with the two sides of the industry, shall be responsible for ensuring the implementation of the provisions concerning crew composition contained in the Annex to this Regulation."

u) Article 23 is amended as follows:

"1. The Commission shall, every two years, forward to the Council, the European Parliament and the Economic and Social Committee a general report on the implementation of this Regulation by the Member States."

2. Unchanged.

v) Article 24 is completed by the following new paragraph 4:

"4. The Commission shall, as soon as possible, lay down by Regulation common penalties to be applied by Member States for contraventions of this Regulation."

w) Article 25 is reworded as follows:

"The Commission shall, as soon as possible, and at the latest five years after the entry into force of this Regulation, forward a proposal for a Regulation to the Council on the harmonization of social provisions relating to passenger transport by inland waterway."

x) The present Article 25 becomes Article 26 and is amended as follows:

"Article. 2(3), Article 5(1)(a) and ^(e) subparagraphs 2 and 3 of Article 7(1), and Articles 21 and 24 shall apply from the entry into force of this Regulation. The other provisions of this Regulation shall become applicable as from (18 months after the entry into force of the present Regulation)."

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

ANNEX

The existing Annex on the composition of crews has been modified in respect of technical matters to bring it into line with the latest version of the Regulation on the inspection of shipping on the Rhine contained in the Decision of the Central Commission for Navigation on the Rhine No 1975-I-23 of 1 April 1976. The existing Annex is therefore entirely replaced by the new version, which, in accordance with the scope of application set out in the present Regulation, corresponds to the crew composition provisions of the new Regulation on Inspection of Shipping on the Rhine.

ANNEX

COMPOSITION OF CREWS

A. DEFINITIONS

The composition of crews on board vessels engaged in the carriage of goods is laid down below for the following three modes of operation:

- daytime sailing (maximum 14/16 hours), referred to under (A) in the tables below;
- semi-continuous sailing (maximum 18/20 hours), referred to under (B) in the tables below;
- continuous sailing (maximum 24 hours), referred to under (C) in the tables below.

B. COMPOSITION OF CREWS ON BOARD DUMB BARGES, SELF-PROPELLED BARGES, TUGS AND PUSHER CRAFT

I. DUMB BARGES

1. When, in the case of a dumb barge, the following conditions are fulfilled:

- a) the rudder can be moved without undue effort by one person even at the maximum authorized draught,
- b) dumb barges which are longer than 35 metres from wheelhouse to bows are equipped with a two-way intercommunication system between the wheelhouse and bows,
- c) the bilge pumps and deck-washing pumps in dumb barges of more than 350 dwt are motorized,
- d) the bow anchor winch in dumb barges of more than 350 dwt and the stern anchor winch in dumb barges of more than 750 dwt are motorized,

- (e) dumb barges of more than 1 000 dwt are equipped with hatch covers which can be slid or turned back, unless equivalent devices such as sliding hatch covers are installed;

the composition of the crew shall be as follows:

GROUP	DEADWEIGHT TONNAGE	CREW	A	B	C
1	150 - 750 inclusive	boatmen	1	2	2
		deckhands	1	1	2
		ship's boys	-	-	-
2	over 750 but not exceeding 1400 metric tonnes	boatmen	1	2	2
		deckhands	1	1	2
		ship's boys	1	1	1
3	over 1400 but not exceeding 2500 metric tonnes	boatmen	1	2	2
		deckhands	2	2	3
		ship's boys	-	-	-
4	over 2 500	boatmen	1	2	2
		deckhands	2	2	3
		ship's boys	1	1	1

2. Where one or more of the conditions set out in paragraph 1 are not fulfilled, the crew prescribed under this heading shall, irrespective of the mode of operation, be increased by one ship's boy for Groups 1 and 2 and by one deckhand for Groups 3 and 4.

3. The deckhands in groups 1 and 2 must be at least 18 years old.

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II. SELF-PROPELLED BARGES

1. Where, in the case of a self-propelled vessel, the following conditions are fulfilled:

- a) the rudder can be moved without undue effort by one person, even at maximum authorized draught,
- b) the emission of acoustic and visual signals can be effected from the wheelhouse when the vessel is under way,
- c) self-propelled barges which are longer than 35 metres from wheelhouse to bows are equipped with a two-way intercommunication system between the wheelhouse and bows,
- d) the propulsion machinery is such that changes in speed and direction can be effected, and, in the case of vessels equipped with reversible engines, the propulsion motors can be started, from the wheelhouse,
- e) warning devices installed in the wheelhouse for the monitoring of the propulsion machinery are actuated at critical levels of
 - the temperature of the cooling water and pressure of the lubricating oil in the main engines and transmission system,
 - the oil and air pressure in the reversing device for the propulsion motor and propeller,
- f) the warning devices referred to in (e) may be acoustic or visual.

They must be so designed as to function while the propulsion machinery is running and attract the helmsman's attention under any circumstances,
- g) the machinery is so adjusted that routine maintenance work during navigation can be interrupted at any time,
- h) the bilge pumps and the deckwashing pumps in self-propelled barges of more than 350 dwt are motorized,

- i) the bow anchor winch in self-propelled barges of more than 350 dwt and the stern anchor winch in self-propelled barges more than 86m long are motorized,
- k) the towrope winches of self-propelled barges in Groups 2, 3 and 4 are motorized and can be operated by one person,
- l) self-propelled barges of more than 1000 dwt are equipped with hatch covers which can be slid or turned back, unless equivalent devices such as sliding hatch covers are installed,

the composition of the crew shall be as follows:

GROUP	DEADWEIGHT TONNAGE	CREW	A	B	C
1.	150 - 500 inclusive	boatmen helmsmen deckhands ship's boys	1 - 1 -	2 - 1 -	2 - 2 -
2.	over 500 but not exceeding 1000 metric tonnes	boatmen helmsmen deckhands ship's boys	1 - 1 1	2 - 1 1	2 - 3 -
3.	over 1000 but not exceeding 1600 metric tonnes	boatmen helmsmen deckhands ship's boys	1 1 1 -	2 1 1 -	2 1 2 1
4.	over 1600 metric tonnes	boatmen helmsmen deckhands ship's boys	1 1 1 1	2 1 2 1	2 1 3 -

2. On board self-propelled vessels equipped with engines developing more than 800 metric horsepower, the deckhand must be replaced by a deckhand/motorman.

3. On board self-propelled vessels equipped with engines developing not more than 800 metric horsepower, one crew member must know how to operate and supervise the engines and another crew member must be sufficiently familiar with their operation to be able to start and stop them.

4. Where one or more of the conditions set out in paragraph 1 are not fulfilled, the crew prescribed under this heading shall, irrespective of the mode of operation, be increased by one ship's boy for Groups 1 and 2 and by one deckhand for Groups 3 and 4.

5. Where a self-propelled barge is required to tow more than one vessel, its statutory crew shall be increased as follows for all groups and for all modes of operation:

- by one ship's boy for two or three towed vessels;
- by one deckhand for four or more towed vessels.

If, however, a self-propelled barge is required to tow downstream not more than two light dumb barges coupled abreast, its crew shall not be increased.

When a self-propelled barge is used as an additional tug with the aid of a single towrope, its statutory crew shall not be increased.

6. When a self-propelled barge is required to push a vessel in line ahead, its statutory crew shall be increased by one deckhand for all groups and for all modes of operation. The same shall apply when the vessel is coupled alongside the self-propelled barge.

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Where the self-propelled barge is not equipped with a pushing platform, the competent authorities of the Member States shall, for each train, require that the coupling operations be demonstrated to them.

If they find that the prescribed deck crews are not adequate for the proper performance of these operations, including performance in adverse conditions (rain, freezing temperatures, etc.), they shall supplement these crews as required.

III. TUGS

1. When, in the case of a tug, the following conditions are fulfilled:

- a) the rudder can be moved without undue effort by one person;
- b) the propulsion machinery is such that changes in speed and direction can be effected, and, in the case of vessels equipped with reversible motors, the propulsion motors can be stopped and started, from the wheelhouse;
- c) warning devices installed in the wheelhouse for the monitoring of the propulsion machinery are actuated at critical levels of
 - the temperature of the cooling water and pressure of the lubricating oil in the main engines and transmission system;
 - the oil and air pressure in the reversing device for the propulsion motor or propeller;
- d) the warning devices referred to in (c) may be acoustic or visual. They must be ^{so} designed _{can} that they function while the engines are running and/attract the boat-man's attention under any circumstances;
- e) the anchor winches of tugs of more than 250 metric horsepower are motorized;
- f) the towrope winches are motorized and can be operated by one person;

The composition of the crew shall be as follows:

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GROUPS	METRIC HORSEPOWER	CREW	A	B	C
1.	up to and including 250	boatmen helmsmen deckhands ship's boys engineers deckhands/motor- men	1 - - - - 1	2 - - - - 1	2 - 1 - - 1
2.	over 250 but not exceeding 500	boatmen helmsmen deckhands ship's boys engineers deckhands/motor- men	1 - - 1 (x) - 1	2 - - 1 (x) - 1	2 - 1 1 (x) - 1
3.	over 500 but not exceeding 750	boatmen helmsmen deckhands ship's boys engineers deckhands/motor- men	1 - 1 - - 1	2 - 1 1 - 1	2 - 1 1 - 2
4.	over 750 but not exceeding 1000	boatmen helmsmen deckhands ship's boys engineers deckhands/ motormen	1 - 1 1 1 -	2 - 1 - 1 1	2 - 2 1 1 1

(x) Where only one towrope is used or where there is only one length of tow, no ship's boy shall be required.

GROUPS	METRIC HORSEPOWER	CREW	A	B	C
5.	over 1000 but not exceeding 2000	boatmen	1	2	2
		helmsmen	1	1	1
		deckhands	1	1	2
		ship's boys	1	-	1
		engineers	1	1	1
		deckhand	-	1	1
		motormen			
6.	over 2000	boatmen	1	2	2
		helmsmen	1	1	1
		deckhands	2	2	4
		ship's boys	1	-	-
		engineers	1	1	1
		deckhand			
		motormen	-	1	1

2. Where one or more of the conditions set out in paragraph 1 are not fulfilled, the crew prescribed under this heading shall be increased by one deckhand/motorman.

3. In the case of tugs which provide solely a port and roadstead service, the competent authorities of each Member State may allow derogations from the composition of the crew prescribed in paragraph 1.

4. When a tug complying with the provisions of points a, b, c and d of paragraph 1 and equipped with motor anchor winches pushes one or two lighters, the composition of the crew shall be as follows:

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GROUPS	METRIC HORSEPOWER	N° of pushed craft	CREW	A B C		
				A	B	C
1.	up to and including 500	1 or 2	boatmen	1	2	2
			helmsmen	-	-	-
			deckhands	2	2	3
			ship's boys	-	-	-
			engineers	-	-	-
			deckhands/ motormen	1	1	2
2.	over 500 but not exceeding 750	1 or 2	boatmen	1	2	2
			helmsmen	1	1	1
			deckhands	2	2	3
			ship's boys	-	-	-
			engineers	-	-	-
			deckhands/ motormen	1	1	2
3.	over 750 but not exceeding 1000	1 or 2	boatmen	1	2	2
			helmsmen	1	1	1
			deckhands	3	2	4
			ship's boys	-	-	-
			engineers	1	1	1
			deckhands/ motormen	-	1	1
4.	over 1000	1 or 2	boatmen	1	2	2
			helmsmen	1	1	1
			deckhands	3	2	4
			ship's boys	-	-	-
			engineers	1	1	1
			deckhands/ motormen	-	1	1

The competent authorities of the Member States shall require that the coupling operations of the train be demonstrated to them. If they find that the deck crews prescribed in the foregoing table are not adequate for the proper performance of these operations including performance in adverse conditions (rain, freezing temperatures, etc.); they shall supplement these crews as required.

In particular cases the competent authorities of the Member States may allow derogations from the above-mentioned provisions. These derogations correspond with the recommendations established by common agreement of the competent authorities of the Rhine riparian States and Belgium

IV. PUSHER CRAFT

1. When, in the case of a pusher vessel, the following conditions are fulfilled:
 - a) the propulsion machinery is such that changes in speed and direction can be effected, and, in the case of vessels equipped with reversible motors, the propulsion motors can be stopped and started, from the wheelhouse;
 - b) warning devices installed in the wheelhouse for the monitoring of the propulsion machinery are actuated at critical levels of
 - the temperature of the cooling water and the pressure of the lubricating oil in the main engines and transmission system;
 - the oil and air pressure in the reversing device for the propulsion motors or screw;
 - c) the warning devices referred to in (b) may be acoustic or visual. They must be so designed that they function while the propulsion machinery is running and can attract the attention of the boatman under any circumstances;

the composition of the crew shall be as follows:

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GROUPS	METRIC HORSEPOWER	NUMBER OF PUSHED CRAFT	CREW	A	B	C
1.	up to 500	0 or 1 or 2	boatmen helmsmen deckhands ship's boys engineers deckhands/ motormen	1 - 1 - - - 1	2 - 1 - - - 1	2 - 2 - - - 2
		3 or more	boatmen helmsmen deckhands ship's boys engineers deckhands/ motormen	1 - 2 - - - 1	2 - 2 - - - 1	2 - 3 - - - 2
2.	over 500 but not exceeding 750	0 or 1 or 2	boatmen helmsmen deckhands ship's boys engineers deckhands/ motormen	1 1 1 - - - 1	2 1 1 - - - 1	2 1 2 - - - 2
		3 or more	boatmen helmsmen deckhands ship's boys engineers deckhands/ motormen	1 1 2 - - - 1	2 1 2 - - - 1	2 1 3 - - - 2

GROUPS	METRIC HORSEPOWER	NUMBER OF PUSHED CRAFT	CREW	A	B	C
3.	over 750 but not exceeding 1000	0	boatmen	1	2	2
		or	helmsmen	1	1	1
		1	deckhands	2	1	2
		or	ship's boys	-	-	-
		2	engineers	1	1	1
			deckhands/ motormen	-	1	1
		3	boatmen	1	2	2
		or	helmsmen	1	1	1
		more	deckhands	3	2	3
			ship's boys	-	-	-
			engineers	1	1	1
			deckhands/ motormen	-	1	1
4.	over 1000	0	boatmen	1	2	2
		or	helmsmen	1	1	1
		1	deckhands	2	1	2
		or	ship's boys	-	-	-
		2	engineers	1	1	1
			deckhands/ motormen	-	1	1
		3	boatmen	1	2	2
		or	helmsmen	1	1	
		more	deckhands	3	2	3
			ship's boys	-	-	-
			engineers	1	1	1
			deckhands/ motormen	-	1	1

2. In particular cases the competent authorities of the Member States may allow derogations from the above-mentioned provisions. These derogations correspond with the recommendations established by common agreement of the competent authorities of the Rhine riparian States and Belgium.

3. The crew composition prescribed for a pusher vessel pushing no more than one lighter in line shall also apply to a pusher vessel coupled to a lighter alongside, provided that such a formation is permitted under the traffic safety regulations of the Member States and that the following conditions are fulfilled:

- a) the couplings conform to the traffic safety regulations of the Member States relating to the coupling of trains of pushed vessels;
- b) the changeover from alongside to single-line formation and vice versa can be effected without difficulty.

If all the conditions laid down above are not fulfilled, the lighter must have the same crew as that stipulated for a dumb barge of the same tonnage.

4. When a pusher vessel is authorized to push alongside one or more unconverted dumb barges of the train of vessels pushed, the crews of this vessel shall be those laid down in paragraph 1, the dumb barges being treated as lighters. The crews of each dumb barge must be increased by one deckhand with a shipping certificate for the A mode of operation and by two deckhands with shipping certificates for the other modes of operation. When the vessels are under way, at least one of these deckhands must be on duty on board each dumb barge.

V. ADDITIONAL PROVISIONS

1. Where the number of helmsmen, deckhands and deckhands/motormen in the crew is two or more, one deckhand may be replaced by two ship's boys. This replacement is not permissible in semi-continuous or in continuous sailing.

A crew may not include more than three ship's boys. Two ship's boys may be replaced by one deckhand if the crew also includes at least one deckhand, a deckhand/motorman or a helmsman.

2. Where the statutory crew on board a vessel consists of more than six members, no crew member shall, irrespective of the mode of operation, be assigned the task of cooking for all.

3. If, by virtue of its dimensions, construction, installations or functions, a vessel does not correspond to one of the types referred to under sections I, II, III and IV, and if it can reasonably be assumed that the crew resulting from application of the provisions of those sections would be inadequate to ensure safe navigation of the vessel, the competent authorities of each member State shall specify a larger crew than that provided for under those sections.

For each vessel afloat, provided that it is not excluded under Article 4 of the Regulation, and for steam tugs, the competent authorities of the Member States shall determine, according to the dimensions, construction, installations and functions of the craft, the composition of the crew required to be on board during navigation.

4. On board vessels whose crew consists of more than one boatman and one deckhand, the crew may be reduced by one ship's boy, if the latter is attending a vocational training school for barge operators and there is a certificate on board attesting to this fact. This reduction shall be permitted for a continuous period not exceeding three months in any calendar year.

5. The competent authorities of each Member State may, in the case of vessels whose crews include a boatman and two other members having at least the qualifications of a deckhand, issue written authorization for the replacement of one deckhand, for a period of three months, by person of at least 18 years of age who has not had the sailing experience required under Article 5 (c) of the Regulation. Such authorization, however, shall be issued only where the boatman in charge of the vessel has shown that, despite his efforts, he has been unable to obtain a deckhand to bring his crew up to strength.