

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 483 final

Brussels, 12 December 1991

## Communication by the Commission to the Council

Amendment to a proposal for the establishment of a  
Community ship register

Amended proposal for a  
COUNCIL REGULATION (EEC)

establishing a Community ship register and providing the  
flying of the Community flag by sea-going vessels

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

Communication by the Commission to the Council

Subject: Amendment to a proposal for the establishment of a Community ship register.

1. On 3 August 1989 the Commission presented to the Council its proposal on the establishment of the Community ship register, EUROS, within the framework of "positive measures" for the benefit of the European flag fleet.

2. In the previous 10 years the 29 % share of the Twelve in the world tonnage has been halved, while the number of Community nationals employed on board Member States' fleets has equally declined, from 300.000 to 150.000 seafarers. The main cause has been the relatively high costs of operating under EC flags, the result to a large extent of the difference in social and fiscal charges between EC flag vessels and those flying the flags of some other countries, a difference which could amount to 400.000 ECU per ship per year.

3. The Economic and Social Committee in its opinion of November 1989, found the EUROS proposal "imaginative", but criticized the absence of tangible, in particular fiscal/financial advantages.

4. On 26 October 1990 the European Parliament adopted an opinion inviting the Commission to amend its original proposal on some points. The suggestions made by the Parliament provide for a slight relaxation of the conditions concerning the nationality of the crew for vessels transporting goods, more stringent requirements for passenger vessels and the introduction of direct fiscal and financial benefits. The latter would consist of:

- 1) the introduction, for EUROS-registered vessels, of a variable tonnage tax in place of company and other revenue taxes, on lines similar to the system already operating in Greece;
- 2) the introduction of an exemption for the wages of seafarers from income tax in so far as they are employed on ships registered in EUROS. According to the Parliament this exemption should be extended, after one year, to the income of seafarers on board all vessels which are registered in the national register of a Member State, but not in EUROS. The intention is that the exemption would result in a reduction in operating costs for the shipowner, and not in an increase in the net wages of seafarers;

- 3) supplementary aid from Community funds for the modernisation of the fleet, restructuring plans, training of seafarers and repatriation of seafarers, in so far as they are registered in EUROS;
  - 4) supplementary aid from Community funds in the form of contributions to the pension fund institutions in the Member States.
5. The Commission accepted the amendments concerning the nationality of the crew, but could not, at that moment, accept the fiscal and financial proposals. However, the Commission left open the possibility that it could still accept the proposals concerning the tonnage tax and the income tax of seafarers, and Mr. Van Miert announced that the Commission would study these proposals in depth. There were important practical questions as to feasibility which required consultation with Member States experts. As far as the proposals concerning Community aid were concerned, the Commission referred to the existence of a budget line for "specific actions in the field of maritime transport", containing a very modest sum, although larger provisions in the future should not be ruled out. The aid in question might be considered at the appropriate time in accordance with normal budgetary procedures.
6. A consultation of Member States' experts on the fiscal proposals took place on 3 and 4 December 1990. Some experts questioned the Community's competence in this respect and the compatibility of these proposals with the trend towards abolition of special tax treatment of particular sectors or classes of individuals. Although the main purpose of the meeting had been to consider questions of feasibility, an appropriate answer to these general comments will also have to be given if the proposals of the European Parliament are to be followed up.
7. As to the introduction of a tonnage tax, there are certain practical complications (for example, in relation to double-taxation treaties) which would require to be resolved. The differences between tax treatment of vessels registered in EUROS and other vessels registered in a Member State, and, in multi-function companies, between their shipping and other activities, would complicate the process of assessment and might lead to opportunities for evasion. There is also the consideration that in the event of a non-profit situation the tax would need to be paid anyhow, and the possibility of offsetting tax liability against new investment would be lost. For the present, it is not proposed to pursue such a tax, although the possibility of returning to the matter at a later stage should be reserved.
8. As far as the exemption of seafarers from income tax is concerned, relevant precedents already exist in a number of Member States. In the UK and GR there is already a general system of partial exemption for employees working outside the country. In Italy and Portugal similar systems exist for those who work outside the territory. In three Member States, specific benefits exist for seafarers: Danish seafarers employed on ships plying in international trade are fully exempted from income tax and Dutch seafarers for 35 % of their wages. In Belgium there is a small rebate per day.
9. As to feasibility, three particular areas of difficulty have been identified. Firstly, it is necessary to ensure that, as far as possible, the benefit of tax exemption accrues fully to the shipowners, since it is in the reduction of their operating costs that

Justification of the proposal lies. The amendment adopted by the European Parliament includes no adequate mechanism for ensuring this. Secondly it seems difficult to request Member States to introduce a general exemption from income tax for seafarers, because the trend in the general taxation policy is to limit specific exemptions as far as possible. Thirdly, it is necessary to ensure that the exemption does not have unfavourable consequences for seafarers by reducing their potential for mortgage relief or other tax concessions, or by affecting the progressiveness of the tax system. These three areas of difficulty can be addressed if the arrangement takes the form not of an exemption from tax but a reimbursement of tax paid. The amendment attached to this Communication provides for such reimbursement, with different provisions depending on whether or not a system of withholding by employers is in operation.

10. Following the results of the feasibility study, the Commission has taken account of the idea contained in the Parliament's proposal concerning the exemption of seafarers from income tax (in the form of a reimbursement to shipowners), with a view to facilitating the adoption of the EUROS proposal by the Council. The following arguments may be advanced:

- shipowners and seafarers, Member States, the Economic and Social Committee and the European Parliament have urged the adoption of positive measures as soon as possible. The situation of the European flag fleet is continuing its rapid decline and if nothing is done there will be an accelerated flagging out of ships, meaning a further decrease of EC employment and tax income. Furthermore, during the recent period of international tension the availability of an EC fleet with a body of qualified seafarers proved to be essential for our own supplies and those of our allies;
- if shipowners are placed in a better position to employ Community nationals as seafarers by means of fiscal measures - which are related to the employment of Community nationals - an important contribution will be made to employment in the European context while the need to flag out will be removed;
- ancillary industries in Europe, such as research, maritime training institutes, ports, shipbuilding, etc will remain in a position to benefit from the existence of national or rather Community flag shipping;
- since the exemption of seafarers from income tax is a measure which already fully or partly applies in various Member States, it is sensible with a view to avoiding distortion of competition to substitute these measures by a mandatory Community scheme as a common, coordinated action within the framework of positive measures for the Community fleet;

11. As far as the the question of Community competence in the fiscal field - see point 6 above - is concerned: it concerns a measure for the sake of coordination, on the basis of Article 84(2)(EEC), of divergent policies of the Member States.

According to an opinion of the Legal Service of the Commission of 20 March 1990, it is not possible to exclude fiscal (or social) measures from the scope of Article 84(2) if they are limited to the needs of a common shipping policy and if they are justified, in particular, by the concern to secure in a coordinated manner the survival of the Community fleet in the world market, while avoiding distortion of competition between Community shipowners. Otherwise, according to the Legal Service, in the extreme, transport policy would be made meaningless.

12. As stated above, in various Member States measures concerning exemption of seafarers from income tax already exist. In some cases these measures have been taken from the point of view of shipping policy, with a view to the protection of the national fleet. It appears that they make an important contribution to the survival of these fleets. These measures may be considered as state aids and the Commission has started to investigate them and may prohibit them if they are not in conformity with the common interest. However, the Commission is aware that political complications would be likely to arise if it were to forbid these measures in the present situation (although they would of course be removed by introduction of a scheme at Community level). On the other hand it is obvious that in other Member States the national fleets do not benefit from the measures in question, which would promote distortion of competition. Other Member States, in their turn, are taking measures of a different nature with the consequent danger of a divergence in conditions of competition. Therefore the Commission will not be able to stay its hand indefinitely.

13. In this context it seems to be appropriate to introduce a non-discriminatory Community framework which respects the principles of Article 92(3). The European Parliament has put forward the following argument, which the Commission can accept: if the Community wishes to put an end to the flagging out of Community ships, then it must inevitably seek to reduce the disparity in operating conditions between Community shipping as a whole and ships under flags of convenience or shipping companies in some DAE's (Dynamic Asian Economies). Although the latter companies, which are acquiring an ever increasing part of the market, benefit from a combination of other hidden advantages, a reduction of wage-related costs would undoubtedly help Community shipowners quite a long way. Even if in most cases the net wages of Community seafarers would remain higher, it is likely to be the case that part of the difference can be compensated by the higher quality of the European seafarers. Besides, if common measures, taken at the level of the Community, to bridge the gap in operational costs compared with third countries, were adopted, the problem of distortion of competition would be solved. State aids involved in the amended EUROS proposal should be considered compatible with the Treaty, exceptionally, with a view to arriving at a Community system to be developed further in the future which provides Community shipowners with adequate and harmonized conditions of operation, putting them on an equal footing with third country shipping companies.

14. The European Parliament proposal was that the exemption of income tax should not be limited to seafarers on ships registered in EUROS but should be extended to all ships under the flag of a Member State. The argument relied on by the European Parliament that such extension is necessary to avoid discrimination amongst seafarers is not however valid, since the objective is not to affect the net wages of the seafarers. The possibility of state aids at national level, including exemption of seafarers from income tax, being granted for ships registered under the flag of a Member State, but not in EUROS, is not excluded, but consistent application of Community competition law should result in notification of all such aids to the Commission, and their examination in accordance with the guidelines laid down by the Commission. Naturally, if the beneficiaries operate under exactly the same conditions as vessels registered in EUROS such examination will be on the basis of equal treatment.

15. Whatever the position at national level, a number of considerations, in addition to those referred to above, provide a strong justification for granting a special facility for a complete reimbursement to the shipowner of the income tax on the wages of seafarers working on board ships registered in EUROS:

- a) a mechanism, a point of reference, is needed with a view to channelling national efforts, to avoid distortion of competition between Community shipowners and to achieve the objectives of Community shipping policy, i.e. the continued existence of ships under Community flag and the employment, to the highest possible extent, of Community seafarers; EUROS will provide for a minimum of operating conditions under which advantages such as those on tax exemption may be given;
- b) the register will make a major contribution to the furthering of the Community interest by reinforcing the image and the commercial attraction of a high quality service Community fleet;
- c) the register will be the only means to create some sort of identity in the European transport system;
- d) the facility in question will be more easily identified as meeting a clear shipping objective (see para 10 above) and as such there will be no chance of a knock-on effect on other sectors or other groups of people who work outside the Community: the Community shipping industry cannot be protected in any other way and there is no other industry in which the workers are so long employed outside the Community;
- e) the restriction of the facility to EUROS will enable Member States which are flexible as to the nationality of the crew to offer their shipowners the choice between operations with the tax facility but on the EUROS manning conditions or operations without tax facility but with continued flexibility as to the nationality of the crew. This requires, however, the political will to be consistent in the application of Community competition law (state aids) if the facility is granted to ships which do not meet the objective of employment of Community seafarers.

The example of Denmark, where 80% of the crew are still Community nationals, and where the number of ships on the Register is increasing, seems to indicate that measures agreed at Community level will have greater impact than full flexibility on manning. Indeed, the Danish example suggests that the Commission's proposal could even lead to increased employment of Community seafarers. The corollary of this would be that measures would need to be considered to make the profession sufficiently attractive for the number of Community seafarers required.

16. There is one proviso that should be added concerning this facility for EUROS ships: it is proposed that EUROS vessels engaged in regular cabotage trades should not be eligible for the facility, to the extent that such cabotage trades are restricted to ships registered in the register of a Member State. This reflects the fact that such vessels are not subject to competition from carriers operating ships under flags of third countries. Ships which pick up cargoes in cabotage incidentally as part of an international voyage will however be eligible for the facility, since to exclude them would be administratively difficult.

17. Under the circumstances the Commission presents the proposed amendment concerning the reimbursement of seafarers' income tax to the shipowner with a view to re-starting the debate in the Council, because:

- the call for common action by Member States and the organisations of shipowners and seafarers becomes ever louder,
- confidence in a European shipping policy is clearly at stake: the adoption of the amendment is a first important step in reversing this trend and serves as a catalyst for the development of further proposals,
- the chance of a speedy adoption of an evenly balanced proposal concerning liberalisation of maritime cabotage becomes greater if a linkage with EUROS can be made, as proposed by the Commission from the outset.

18. The amended proposal and an explanatory memorandum are annexed to this Communication.

EXPLANATORY MEMORANDUM

On 3 August 1989 the Commission presented a proposal to the Council to establish a Community ship register (EUROS), within the framework of "positive measures" to improve the competitiveness of the Community flag fleet.

At its Plenary session on 26 October 1990 the European Parliament approved the Commission's proposal with a number of amendments. The Commission accepted certain amendments, including those concerning the nationality requirements for crews on EUROS vessels. These amendments have meanwhile been published (COM(91) 54 final of 22 February 1991). Two proposed amendments, intended to make the EUROS register a more attractive option for Community shipowners, were not accepted at that time since they needed further study and discussion with Member States' experts. The amendments concerned related to the introduction of a tonnage tax on ships registered in EUROS in lieu of company tax and the exemption of seafarers from income tax to the benefit of shipowners employing those seafarers on EUROS registered vessels and after one year on all ships registered in the Community.

The Commission has discussed these proposed amendments with Member States' experts and on the basis of these discussions, it is now proposed to amend the proposal on the Community register taking account of the Parliament's idea on the exemption of seafarers from income tax, but only for seafarers employed on board EUROS ships. The practical complications to be resolved if the tonnage tax were to be introduced have led the Commission to decide not to pursue the possibility of such a tax at the present time.

The Commission has decided to take account of the Parliament's idea on taxation of seafarers, taking also into account that such a system already applies in various Member States, albeit in different forms. By linking the system to be applied in all Member States to ships registered on EUROS and providing for free and non-discriminatory access to the Community register, certain objectives of Community shipping policy could be attained while avoiding distortion of competition. Since one of the objectives is to stop the decline of the Community flag fleet the facility should accrue to shipowners, but any unfavourable consequences for seafarers should be avoided. The Commission therefore proposes to put the amendment not in the form of a general tax exemption of the seafarers' income tax but rather in the form of a reimbursement to the shipowner of the amount of income tax due from the seafarer. Experience shows that such measures are necessary and that they are effective in achieving the aim of promoting both registration in the Community register and employment of Community seafarers.



State aids involved in this measure should be considered compatible with the Treaty, exceptionally, with a view to arriving at a Community system, to be developed further in the future, which provides Community shipowners with adequate and more harmonised conditions of operation, putting them on an equal footing with third country shipping companies.

It should be noted that, given the expected increase in the national fleet of a Member State as a result of the measures proposed, the reimbursement of seafarers' income tax would not lead to a corresponding reduction in global tax revenue, and that in any case any such loss would be less than that which would follow from the continuing decline of the EC fleet as a result of the failure to take measures of the sort proposed.

In order to avoid any discrimination or distortion of competition because of the different levels of income tax in the Member States it is proposed to make sure that equal access of shipowners to all the registers of Member States is granted for ships to be registered in EUROS along the lines of the Court judgement of 25 July 1991 in case C 221/89 (Factortame).

The attached amended proposal is the reproduction of COM (91) 511 final but now includes the proposal on the reimbursement of seafarers' income tax, i.e. Section 4, Article 18, as well as the relevant recitals.

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,

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

Having regard to the Treaty  
establishing the European Economic  
Community, and in particular  
Articles 84(2) and 92(3)(d)  
thereof,

Having regard to the proposal of  
the Commission,

Unchanged

Having regard to the opinion of  
the European Parliament,

Unchanged

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

Unchanged

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

Whereas the comparative advantage  
of Community shipping has been

considerable decline over 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

eroded over the years, and the 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

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register;

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

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,

with their representative organizations;

in the absence of such an 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 some Member States have already adopted measures at national level exempting seafarers from income tax either totally or partially, such measures being justified in particular by the fact that seafarers work largely outside their country; and that these measures have had a favourable influence on wage costs and have thus contributed to the revival of the fleets of the Member States concerned, and to increased employment of national seafarers;

Whereas the granting of such aids in only some Member States may involve distortion of competition between shipping companies in the Community;

Whereas a Community system involving the same advantages all over the Community would lead to a greater harmonisation of the operational conditions within the Community and compensation for the

competitive disadvantages of the Community fleet in the international shipping market;

Whereas Member States are bound to grant equal access to their registers to shipowners of any Member State, thus allowing them to register their ships in the register of their choice;

Whereas for these reasons the aids involved in the Community system, based on the Community shipregister, are compatible with the common market;

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 right and obligation to fly the European flag;

Whereas registration in this register should be reflected in 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

Whereas the Commission should, in application of the provisions of this regulation, be enabled to adopt implementing provisions concerning the establishment of

registration and deregistration; 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;
  - associated measures aimed at ensuring the maintenance of social standards and at improving environmental and safety standards.

SECTION 2 : The register, vessel owners and vessels

Article 2 : Establishment of the register

Unchanged.

A. Community ship register (hereafter called "EUROS") is hereby established in which sea-going merchant vessels may be registered in addition to their national registration in a Member State. Unchanged.

The Commission shall register when the conditions laid down in Articles 3, 4 and 5 are met. It shall deregister a vessel when it no longer conforms to the provisions of this Regulation. Unchanged.

Article 3 - Persons entitled to have a vessel registered in EUROS

Article 3 - Community vessel owner

1. The following may apply for registration of a vessel in EUROS:

1. The following who are owners of a vessel registered in the national register of a Member State may apply for registration of the vessel in EUROS:

(a) nationals of the Member States established in a Member State and pursuing shipping activities;

(a) nationals of the Member States;

(b) a shipping company formed in accordance with the law of a Member State and having its principal place of business in, and effective control exercised within, the Community, provided that the majority of the capital of that company is owned by nationals of the Member States or the majority of the board of the company consists of such nationals, who have their domicile or usual residence in the Community.

(b) companies formed in accordance with the law of a Member State and having their principal place of business in, and effective control exercised within, the Community.

(c) Nationals of Member States established outside the 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.

(c) Companies formed in accordance with the law of a Member State 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

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";

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) 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;
- (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 Article 5;
- (c) the vessel shall not be more than 20 years old.

- (a) the vessel must be and remain registered in the ship register of a Member State 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 a Community vessel owner;
- (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 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;

Article 9 - Bare-boat charters

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

- |   |  |
|---|--|
| <p>2. the laws of the vessel's initial flag country allow bare-boat registration in another country;</p> <p>3. the consent of the owner of the vessel and of all mortgage creditors for the registration of the bare-boat is obtained; and</p> <p>4. the bare-boat charter is duly recorded in the register of the vessel's initial flag country.</p> | <p>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;</p> <p>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</p> <p>4. the bare-boat charter has been duly recorded in the register of the vessel's initial flag state.</p> |
|---|--|

### 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 25.
2. The Commission shall include in the guidelines provisions ensuring that insofar as requirements concerning safe manning are met and the necessary automatization 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

Article 12 - Nationality of crew

1. On vessels registered in EUROS all officers and at least half of the rest of the

of a Member State.

crew referred to in their minimum manning certificates shall be nationals of a Member State.

Trainees do not count towards meeting the requirements above.

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.
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

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 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.



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.

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<sup>1)</sup> 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 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

Article 16 - Social security

Without prejudice to Article 13 (2) (c) of Council Regulation (EEC) No. 1408/71<sup>1)</sup> 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

Article 17

Articles 14, 15 and 16 shall apply subject to any right conferred or

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O.J. No. L 149, of 5.7.1971, p.2

obligations imposed by any other Community legislative act except where such act expressly provides otherwise.

obligations imposed by any other Community legislative act except where such act expressly provides otherwise.

SECTION 4: Facilities attached to registration in EUROS

Article 18 - Reimbursement of seafarers' income tax to employer.

1. Income tax due from those seafarers who have their fiscal residence in a Member State, in respect of wages received for the period of their employment as members of the crew of a vessel registered in EUROS (including statutory leave periods and any periods of sick leave) shall be reimbursed by the competent national authorities to the employer of the seafarers concerned not later than three months after the wages have been paid.

2. Such reimbursement shall not be made in respect of ships registered in EUROS which are engaged in regular cabotage services in a Member State, to the extent that such cabotage trades are restricted to ships registered in a register of Member State and/or EUROS.

3. The amount of income tax to be reimbursed is equivalent to the tax withheld by the employer in accordance with the national provisions that apply. Where income tax is not deducted at source, the reimbursement shall be effected on the basis of a calculation solely in respect of tax on wages related to the relevant employment.

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

Article 19 - 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 1992, may be

to the register of another Member State without the imposition of additional technical requirements.

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 20 – 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 1992.

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 21 – European Flag

1. Unchanged.
2. Unchanged.

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 22 – 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 23 – 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

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public, administrative or criminal law which shall continue to be governed by the laws of the national flag Member State.

Article 24 - 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 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.

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 18 - Transitional period

1. Member States shall, within six

Article 25 - 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 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 26 - Cooperation

Unchanged.

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

Article 27 - Transitional period

1. Member States shall, within

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. Unchanged.

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

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.

#### Article 28 - 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 29

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

#### Article 30 - Entry into force

This Regulation shall enter into force on 1 January 1991.

This Regulation shall enter into force on 1 January 1993

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

Unchanged

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