



COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**updating and rectifying the Communication on the interpretation of Council Regulation
(EEC) No 3577/92 applying the principle of freedom to provide services to maritime
transport within Member States (maritime cabotage)**

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In its Communication of 22 December 2003 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the interpretation of Council Regulation (EEC) No 3577/92 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage)¹ the Commission addressed several matters relating to the implementation of the Regulation in question.

Further to developments in Community law and because of a need for clarification, the Commission feels that it is necessary to return to two of the subjects dealt with in the above-mentioned Communication.

(1) Passenger threshold for “small islands”

Section 5.6 of the Communication deals with simplified procedures for the carriage of goods and passengers to “small islands”, which are taken to mean islands where the total annual number of passengers carried by sea to and from the island is around 100 000 or fewer.

On 28 November 2005 the Commission adopted Decision 2005/842/EC on the application of Article 86(2) of the Treaty to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest².

That Decision sets out the conditions under which State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest is to be regarded as compatible with the common market and exempt from the requirement of notification laid down in Article 88(3) of the Treaty. Article 2 (1)(c) of the Decision applies to compensation for air or maritime links to islands on which average annual traffic during the two financial years preceding that in which the service of general economic interest was assigned does not exceed 300 000 passengers.

The Commission considers that compensation for services of general economic interest in the field of maritime transport and the procedures for selecting the undertakings in charge of those services are closely linked and that, therefore, the same passenger threshold should be provided for in Article 2(1)(c) of Decision 2005/842/EC and in Section 5.6 of the Communication on Cabotage.

¹ COM(2003) 595.

² OJ L 312 of 29.11.2005, P.67.

For these reasons the Commission intends to apply a threshold of 300 000 passengers per year, instead of 100 000 passengers, for the purposes of Section 5.6 of the Communication on the interpretation of Council Regulation (EEC) No 3577/92.

(2) Ships registered in Gibraltar

Section 2.2.2 of the Communication on the interpretation of Council Regulation (EEC) No 3577/92 deals with access to cabotage and the conditions of ship registration in the Member States. Paragraph 3 of Section 2.2.2 addresses ships registered in Gibraltar. The above-mentioned paragraph provides for the possibility of refusing access to cabotage to Gibraltar-registered ships if it were established that those ships were not effectively subject to the Treaty and to the Community law derived from it.

Since the Community set of rules in the field of maritime transport is entirely applicable to ships registered in Gibraltar, the statement contained in the above-mentioned Paragraph 3 is incorrect and must be rectified.

Therefore, the Commission points out that ships registered in Gibraltar are entitled to have access to maritime cabotage under the same conditions as any ship registered in a Member State.