



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL DECISION

on the conclusion of the Agreement establishing conditions for the carriage of goods and passengers by inland waterway between the European Community on the one hand, and the Czech Republic, the Republic of Poland and the Slovak Republic on the other

(presented by the Commission)

SUMMARY

The present proposal for a Council Decision on the conclusion of an Agreement establishing conditions for the carriage of freight and passengers by inland waterway between the European Community and the Czech Republic, Poland and Slovakia is issued subsequent to the Council Decision of 7 December 1992 authorizing the Commission to negotiate such an agreement with third countries. The need for such an agreement arises out of the increase in East-West trade in Europe since 1989 and the opening of the Rhine-Main-Danube Canal in 1992. The proposed Agreement would lay down common rules for inland waterway transport between the Community and the other Parties, with a view to promoting this safe and environmentally-friendly mode of transport as well as furthering the integration of the countries concerned into the Community. The proposed Agreement would establish a free market in waterway transport between the Community and the third countries concerned, with a transitional market regime for Germany until the year 2000. The Agreement would replace bilateral agreements between Member States and the third countries concerned, where such agreements exist.

The Commission considers that the draft Agreement is acceptable to the Community and proposes that the Council:

- (i) approves the results of the negotiations;
- (ii) decides to sign the Agreement and
- (iii) initiates the procedures for its conclusion.

EXPLANATORY MEMORANDUM

A. GENERAL BACKGROUND

1. At its meeting on 7 December 1992 the Council, following a recommendation from the Commission, authorized the Commission to negotiate an agreement between the European Economic Community and third countries on rules for the carriage of freight and passengers by inland waterway between the parties concerned. The third countries concerned were Poland and the Contracting States to the Danube Convention (who, at this time, were Austria, Bulgaria, Czechoslovakia, Hungary, Rumania, the former USSR and the former Yugoslavia).

2. In March and September of 1993 exploratory meetings with the third countries concerned took place in Brussels to examine the possibility of concluding a single multilateral agreement. Against the background of the ongoing political and economic changes taking place in the Danube region, and in particular with regard to the military conflict that had broken out in the former Yugoslavia, these meetings revealed that it would be difficult to move ahead rapidly towards a comprehensive multilateral agreement including all Danube States, the Czech Republic and Poland. In April 1994, after informal bilateral discussions with certain Central European countries (Czech Republic, Hungary, Poland, Slovakia) the Council endorsed the Commission's intention to give special attention to negotiations with these four countries. An agreement with these countries was seen as a possible first step which could serve as a basis for further negotiations with other Danube countries at a later stage.

3. Three negotiating meetings with these four countries were held. They took place in Brussels on 10 March 1995, 20 October 1995 and 28 March 1996. In addition, an informal drafting Committee met twice, in Prague in May 1995 and in Bratislava in January 1996. In accordance with the gentleman's agreement on a procedure for negotiations which was adopted with the Council Decision of 7 December 1992, Member States participated as observers at all the negotiating sessions and the Commission has kept the Council fully informed at all stages of the negotiations. Each negotiating session was preceded by discussion with the Member States in the Council. The Commission transmitted copies of the draft Agreement, at all stages in its development, to the Council Special Committee established for the purpose of these negotiations, and also held informal discussions on a bilateral basis with some of the Member States concerned.

4. Although Hungary expressed reservations concerning what it perceived as an imbalance between the regimes for navigation on the Danube and the Rhine, (for example with regard to the fact that Danube boatmasters' certificates and technical ship's certificates are not accepted on the Rhine), at the last negotiating meeting with the four Central European countries on 26 March 1996, Agreed Minutes were signed to the effect that, with the exception of a small number of points of detail, the negotiations had been concluded.

5. These details having been settled, a meeting to initial the text was arranged in Brussels on 12 June 1996. The text was transmitted to the Council beforehand and the chairman of the Council Special Committee was invited to attend the meeting. In the event, Poland was unable to complete its internal procedures by June 12 and Hungary, repeating its objections as outlined above, informed the Commission that it was still not satisfied on these points and wished to negotiate further. The references to Hungary in the text were therefore deleted and a second meeting to initial the text, this time between the Community and the other three delegations, was arranged in Prague on 5 August. The Council was informed of these developments immediately and the Chairman of the Council Special Committee was again invited to attend the meeting.

6. At the meeting in Prague, the text of the proposed Agreement between the Community, the Czech Republic, Poland and Slovakia was duly initialled by the Heads of Delegation of these parties. Three declarations to be attached to the Agreement were also initialled by the Heads of Delegation concerned. Agreed minutes were again signed, to the effect that the negotiations had been concluded and that the text should now be presented to the governments concerned and the Council of Ministers of the European Union for approval and signature.

B. COHERENCE WITH OTHER COMMUNITY POLICIES

7. The promotion of inland waterway transport, which is a cheap, safe and very environmentally-friendly mode of transport, is a central part of the Community's Common Transport Policy. A single market in inland waterway transport is now a reality, by virtue of the following legislation:

Council Directive 76/135/EEC on reciprocal recognition of navigability licenses for inland waterway vessels.

Directive 82/714/EEC laying down technical requirements for inland waterway vessels.

Council Regulation (EEC) No 2919/85 laying down the conditions for access to the arrangements under the Revised Convention for the navigation of the Rhine relating to vessels belonging to the Rhine Navigation.

Directive 87/540/EEC on access to the occupation of carrier by inland waterway in national and international transport and on the mutual recognition of diplomas, certificates and other evidence of formal qualifications for this occupation.

Council Regulation (EEC) No 3921/91 laying down the conditions under which non-resident carriers may transport goods or passengers by inland waterway within a Member State.

Council Regulation (EEC) N° 1356/96 on common rules applicable to the transport of goods or passengers by inland waterway between Member States with a view to establishing freedom to provide such transport services.

Council Directive 96/50/EC) on the harmonisation of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community.

The services of the Commission are currently working on a revision of Directive 82/714 which will bring the rules on technical requirements for inland waterway vessels in line with the latest standards in force on the Rhine, in order to further harmonise the EC waterway transport market. In addition, the services of the Commission are currently working on a proposal for a Council Directive on the approximation of the laws of the Member States with regard to the transport of dangerous goods by vessels on inland waterways.

8. The Community's waterway policy also has an external dimension. The collapse of the former Communist bloc in Central and Eastern Europe and the consequent large increase in East-west trade has resulted in a need to establish an efficient pan-European waterway transport system. Waterway transport can play a significant role in reducing the burden on overloaded East-West transport networks, particularly since the opening of the Rhine-Main-Danube Canal in 1992. At present, waterway transport between the Community and Central and Eastern European Countries is governed by a plethora of bilateral regimes between Member States and these countries, even though the Community's internal market has been completed. There are over 20 such bilateral agreements in force, with differing conditions and provisions. For example, certain bilateral agreements contain provisions on equal cargo-sharing and fixed tariffs whilst others are of a more liberal nature. In many cases, there are no agreements governing bilateral traffic between Member States and third countries in Central Europe. In consequence, there is at present no coherent and transparent regime governing waterway transport between the Member States of the Community and the countries of Central and Eastern Europe. This acts as a brake on the development of international waterway transport.

9. When considering the coherence of the proposed Agreement with other Community policies however, it is perhaps most important to place it in the context of the political, economic and legal framework laid down by the Europe Agreements establishing associations between the Community and its Member States and each of the three other Contracting Parties to this Agreement. One of the key objectives of the Europe Agreements is, on the basis of the Community acquis, to establish a free trade area between the Community and the associated countries and to lay the basis for their integration into the Community. The proposed Agreement forms part of that process and fulfils an obligation contained in each of the Europe Agreements, (Article 57.3 of the Europe Agreements with the Czech Republic and Slovakia; Article 56.3 of the Europe Agreement with Poland) which is worded as follows:

"With a view to assuring a coordinated development and progressive liberalization of transport between the Parties adapted to their reciprocal commercial needs, the

conditions of mutual market access in air transport and in inland transport shall be dealt with by special transport agreements to be negotiated between the Parties ..."

10. The broad scope of the Europe Agreements, which establish an agreed basis for matters such as customs procedures, movement of workers, current payments and capital movements and conditions of competition, allows the Agreement proposed here to be simpler than existing bilateral waterway transport agreements.

11. As regards the future and the Commission's mandate to negotiate an Agreement with the other countries - apart from the Czech Republic, Poland and Slovakia - which are linked to the Community by inland waterway (that is, the other Danube states), this is a matter which will require further reflection and analysis, in conjunction with Member States and the countries concerned. Whether it would be best to pursue a single agreement with all the other Danube states or to pursue a two-stage strategy concentrating first on the associated Danube countries (Bulgaria, Hungary, Rumania) is a question which must be decided in the light of further analysis and discussion. The present Agreement will serve as a model and a basis on which to continue the negotiations with the other Danube states.

C. CONTENTS OF THE PROPOSED AGREEMENT

Article 1

12. No comment.

Article 2

13. This Article is based on provisions contained in existing bilateral agreements.

Article 3

14. This Article is self-explanatory. It has been included in line with a specific requirement of the negotiating directives attached to the Commission's negotiating mandate.

Article 4

15. This Article is also based on provisions in existing bilateral agreements.

Article 5

16. It is becomingly increasingly common in the inland navigation sector for operators established in Central European countries to lease vessels from transport companies in the Community, and vice-versa. In such cases, the important factor is the country of origin of the operator, not the vessel. Otherwise, it would be possible for Central European operators to lease a Community vessel and then carry out unlimited cabotage operations within the Community. This Article is also necessary with regard to the transitional market regime established by Article 10 of the Agreement, which provides for cargo sharing in transport operations between Germany and the other Contracting Parties until 2000.

17. This principle is already established by Council Regulation (EEC) No 2919/85 laying down the conditions for access to the arrangements under the Revised Convention for the navigation of the Rhine. This Regulation allows vessels of all Community Member States to have access to the Rhine, provided that the operator of such a vessel is established in a Member State. The same principle is reaffirmed in Council Regulation (EC) 1356/96 (see paragraph 7 of this explanatory memorandum). Article 5 of the proposed Agreement ensures that no vessel may be considered as a Community vessel unless its operator has a genuine link with a Member State, and therefore corresponds to current practice in the Member States concerned.

Article 6

18. This Article, together with article 9, establishes a free market in waterway transport between the Community and each of the other three Contracting Parties. Certain kinds of traffic, however, are subject to authorization by the competent authorities concerned.

Article 7

19. No comment.

Article 8

20. This Article prohibits cabotage by vessels of other Contracting Parties within the Community and by Community vessels within the other Contracting Parties. However, paragraph 1 includes a provision regarding Czech vessels which is contained in the existing Czech-German bilateral Agreement. In line with the negotiating directives attached to the negotiating mandate, paragraph 2 allows vessels of the other Contracting Parties to carry out a single consecutive cabotage operation within the Community when on a direct return journey, but only between two Member States and not, of course, on the Rhine. It should be noted that the current German-Polish bilateral agreement already allows Polish vessels to carry out such operations when unloading on German territory.

21. Community vessels are granted equal consecutive cabotage rights in the other Contracting Parties.

Article 9

22. No comment.

Article 10

23. The purpose of this Article is to establish a transitional market regime which will allow certain aspects of the existing bilateral agreements between Germany and the other Contracting Parties, namely cargo sharing and fixed tariffs, to continue to apply until the year 2000. This is needed in order to allow German operators, who are currently faced with difficult economic circumstances, more time to adapt to the free market in cross-border traffic. The existing arrangements concerning cargo sharing and fixed tariffs may therefore remain in force until 2000. The exemption for Czech vessels contained in paragraph 2 is based directly on a provision in the existing Czech-German bilateral agreement.

24. The one change compared to the current situation is that, following the entry into force of this Agreement, all Community carriers will be allowed to participate in traffic between German ports and ports in the other Contracting Parties. This reflects internal Community law, where waterway carriers may operate both within any Member State and between any Member States: the right for Community operators to carry out cabotage in a Member State where they are not established was ensured by Council Regulation (EEC) 3921/91 and the right for all Community operators to carry out transport operations between Member States is guaranteed by Council Regulation (EEC) 1356/96.

Article 11

25. In order to allow the Joint Committee established by this Agreement to follow developments in the market and to suggest improvements in the application and management of this Agreement, boatmasters shall be required, when crossing the external frontier of the Community, to supply statistical information on the form given in Annex 2. The form will also facilitate control procedures by the competent authorities to ensure that the terms of the Agreement are being respected. Further details are given here under the heading "Annex 2".

Article 12

26. According to existing bilateral agreements, vessels, crews, passengers and cargoes are subject to the legal provisions in force on the waterway where a vessel is operating. Article 12 replicates this situation, except for technical ship's certificates and boatmasters' certificates, where EC law exists. Regarding the latter two types of certificate, the

requirements on the Rhine, as laid down by the Central Commission for Navigation on the Rhine, differ from those for the rest of the Community's waterways. Article 12 therefore allows for the continuation of current practices on the Rhine, but for all other waterways concerned, EC legislation shall apply. It should also be noted here that the other Contracting Parties are anyway required by the terms of the Association Agreements they have concluded with the Community and its Member States to approximate their laws to those of the Community.

27. Paragraph 2 refers to the requirements in force for the carriage of dangerous goods on the Rhine (ADNR), which is the only binding legislation for the international carriage of dangerous goods by inland waterway, but also applies the highest safety standards.

Article 13

28. This Article is based on a standard clause in existing bilateral agreements. It is self-explanatory.

Article 14

29. This Article, too, is based on common provisions in existing bilateral agreements and is self-explanatory. It serves to clarify and allocate responsibilities in the event of an accident.

Article 15

30. In common with existing bilateral agreements and with international transport agreements in other areas, a Joint Committee is established to oversee the Agreement. In paragraph 1, the reference to "relevant experts" ensures the participation of Member State experts in the Committee. Paragraph 3 reflects the current practice under existing bilateral agreements.

Article 16

31. Based on a standard clause in bilateral agreements.

Article 17

32. This Article lays down a dispute settlement procedure which reflects exactly the approach taken in the Association Agreements.

Article 18

33. Based on a standard clause in bilateral agreements.

34. The contents of **Chapter XII** on institutional, general and final provisions, follow standard practice in international agreements.

Article 19

35. No comment.

Article 20

36. No comment.

Article 21

37. No comment.

Article 22

38. No comment.

Article 23

39. The inclusion of this Article was specifically requested by the other negotiating parties for the sake of clarity.

Article 24

40. Paragraph 2 ensures that, should one of the other Contracting Parties encounter delays in ratification, the entry into force of the Agreement will not also be delayed.

Annex 1

41. No comment.

Annex 2

42. The proposed form would allow the competent authorities to monitor the number of traffic operations between the Community and the other Contracting Parties, the number of consecutive cabotage operations as well as the nature of the cargoes carried.

Protocol 1

43. With regard to the third paragraph of Protocol 1, as mentioned in paragraph 8 of this explanatory memorandum, it should be noted that the services of the Commission are currently preparing a proposal for a Directive to upgrade the requirements of Directive 82/714/EEC laying down technical requirements for inland waterway vessels in line with the latest requirements in force on the Rhine, which are of a higher standard.

Protocol 2

44. No comment.

Declarations

45. The declarations attached to the text are not, of course, legally binding and do not form part of the Agreement itself. They represent expressions of political intention to be attached to the Agreement on the occasion of its signing. Poland expressed its wish for a similar declaration on infrastructure cooperation with the Community, but has not yet presented any proposal.

D. CONCLUSION

46. The Commission considers that the draft Agreement is acceptable to the Community. Accordingly, it proposes that the Council:

- (i) approves the results of the negotiations;
- (ii) decides to sign the Agreement and
- (iii) initiates the procedures for its conclusion.

It therefore presents herewith a draft Council Decision concluding the Agreement establishing conditions for the carriage of goods and passengers by inland waterway between the European Community on the one hand, and the Czech Republic, the Republic of Poland and the Slovak Republic on the other.

PROPOSAL FOR A COUNCIL DECISION
OF.....

on the conclusion of the Agreement establishing conditions for the carriage of goods and passengers by inland waterway between the European Community on the one hand, and the Czech Republic, the Republic of Poland and the Slovak Republic on the other.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 75 in conjunction with the first sentence of Article 228(2) and the first subparagraph of Article 228 (3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas the Agreement establishing conditions for the carriage of goods and passengers by inland waterway between the European Community on the one hand, and the Czech Republic, the Republic of Poland and the Slovak Republic on the other should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement establishing conditions for the carriage of goods and passengers by inland waterway between the European Community on the one hand, and the Czech Republic, the Republic of Poland and the Slovak Republic on the other, the Protocols annexed thereto and the declarations attached thereto are hereby approved on behalf of the European Community.

The text of the Agreement as well as the Protocols annexed thereto are attached to this decision.

Article 2

The President of the Council shall, on behalf of the Community, deposit the act of approval provided for in article 24 of the Agreement.

Done at Brussels,

For the Council

AGREEMENT

establishing conditions for the carriage of goods and passengers by inland waterway between the European Community on the one hand, and the Czech Republic, the Republic of Poland and the Slovak Republic on the other.

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',
THE CZECH REPUBLIC,
THE REPUBLIC OF POLAND, hereinafter referred to as 'Poland', and
THE SLOVAK REPUBLIC, hereinafter referred to as 'Slovakia',

CONSIDERING the importance of the existing traditional links between the Community, on the one hand, and the Czech Republic, Poland and Slovakia on the other;

RECOGNIZING that the Community and the Czech Republic, Poland and Slovakia wish to strengthen these links and to establish close and lasting relations, based on mutual interest, which would facilitate the participation of these countries in the process of European integration, thus strengthening and widening the relations established in the past, notably by the Europe Agreements establishing associations between the Community and its Member States and each of the above countries;

HAVING IN MIND that the final objective of the Czech Republic, Poland and Slovakia is to accede to the Community and that this Agreement is a step towards this goal in line with the pre-accession strategy defined at the European Council in Essen;

BELIEVING that the achievement of these aims will be facilitated by the development of the Contracting Parties' economic systems and by the removal of barriers between them;

BELIEVING that a harmonised set of rules governing inland waterway traffic between the Community on the one hand, and the Czech Republic, Poland and Slovakia on the other, will facilitate trade between them and the development of their economic systems;

TAKING ACCOUNT of the various forms of cooperation which are provided for by the Europe Agreements establishing associations between the Community and its Member States on the one hand and each of the Czech Republic, Poland and Slovakia on the other;

WISHING to further develop inland waterway transport as a particularly safe mode of transport with a low impact on the environment and to further develop its role in combined transport;

BEARING IN MIND the differences which still exist between the levels of economic development of the contracting parties ;

TAKING INTO ACCOUNT certain unfavourable economic and social circumstances which presently prevail in the inland waterways ;

RECOGNIZING that the process of integrating the inland waterway markets of the Contracting Parties should proceed in a step-by-step manner with regard to both scope and geographical field of application ;

HAVE AGREED AS FOLLOWS :

CHAPTER I - DEFINITIONS OF TERMS

Article 1

For the purposes of this agreement :

- (a) the 'Contracting Parties' are those of the following signatories:
The Community,
The Czech Republic,
Poland,
Slovakia,
that have consented to be bound by this agreement and for which this agreement is in force;
- (b) i. 'Community vessels' are inland navigation vessels which have the right to fly the flag of a Member State of the Community, which have on board a certificate of membership of a fleet of a Member State and which are operated by a natural or legal person established in a Member State in accordance with its laws and who is entitled in that Member State to carry out the international transport of goods or passengers by inland waterway;
- ii. 'Vessels of the other contracting parties' are inland navigation vessels which have the right to fly the flag of the Czech Republic, Poland or Slovakia, which have on board a certificate of membership of a fleet of one of these contracting parties and which are operated by a natural or legal person established in the state of registration in accordance with its laws and who are entitled in that state to carry out the international transport of goods or passengers by inland waterway;
- (c) 'Ports' are those seaports, inland waterway ports, ports facilities and transshipment points which serve as loading and unloading points for the carriage of goods or passengers by inland waterway vessels ;
- (d) 'Competent authorities' are those authorities designated by the Member States of the Community and by the other Contracting Parties to carry out the tasks set out in Annex 1;
- (e) 'Direct traffic' refers to transport operations between a port situated within the territory of the Community and a port situated within the territory of another Contracting Party, using vessels of these two Contracting Parties;

- (f) 'Transit' refers to transport operations:
- i. by vessels as defined under (b) i. through the territory of another Contracting Party ;
 - or
 - ii. by vessels as defined under (b) ii. through the territory of the Community;
- where neither goods nor passengers are either loaded or unloaded ;
- (g) 'Third contracting party traffic' refers to transport operations between a port situated within the territory of the Community and a port situated within the territory of another Contracting Party carried out by a vessel of a third Contracting Party;
- (h) 'Non-contracting party traffic' refers to transport operations between a port situated within the territory of the Community and a port situated within the territory of another Contracting Party, carried out by vessels other than those defined in Article 1(b);
- (i) 'Third country traffic' refers to transport operations between a port situated within the territory of the Community and a port situated within a country which is not a Contracting Party carried out by vessels of another Contracting Party, and to transport operations between a port situated within the territory of another Contracting Party and a port within a country which is not a Contracting Party carried out by Community vessels;
- (j) 'Cabotage' refers to transport operations for the carriage of goods or passengers between two ports situated within the territory of a Contracting Party carried out by vessels of another Contracting Party;
- (k) 'Transport operation' refers to any journey made by a vessel on public inland waterways for the commercial carriage of goods or passengers.

CHAPTER II - GENERAL PRINCIPLES

Article 2

1. Vessels of the Contracting Parties shall have access to waterways, ports and authorized mooring places on a non-discriminatory basis in connection with transport operations within the scope of this agreement.
2. The provisions of paragraph 1. shall also apply to the transport of floating establishments and installations and for the movement of vessels under construction.

Article 3

The rights and obligations arising from the 1948 Convention concerning the Regime for Navigation on the Danube and the 1868 Revised Convention for Rhine Navigation shall not be affected by this agreement.

Article 4

Each Contracting Party to this agreement shall not treat vessels of the other Contracting Parties carrying out transport operations within the scope of this agreement less favourably than its own vessels. This applies, in particular, to :

- the levying of harbour dues and other infrastructure charges ;
- the use of ports, locks and other waterway installations ;
- the provision of fuel and other ship's supplies ;
- treatment by customs authorities including treatment of fuel and provisions on board.

Article 5

Where the owner and operator of a vessel as defined in Article 1(b) are different natural or legal persons and are not established in the same Contracting Party, the vessel shall, for the purposes of this agreement, be considered as a vessel of the Contracting Party where the operator is established. The documentation on board as referred to in Article 1(b) shall be issued in conformity with this principle.

CHAPTER III - ACCESS TO THE MARKET

Article 6

1. Vessels of the Contracting Parties shall be allowed to participate in direct traffic on a non-discriminatory basis.
2. Third contracting party traffic, other than that falling within the scope of Article 10, shall only be allowed in those cases where authorization is given by the competent authorities of the State where the goods or passengers are loaded.
3. Non-contracting party traffic shall only be allowed in those cases where authorization is given both by the competent authorities of the state where the goods or passengers are loaded and by the competent authorities of the state where the goods or passengers are unloaded.
4. Third country traffic shall only be allowed in those cases where authorization is given by the competent authorities of the Contracting Party where the goods or passengers are loaded or unloaded.
5. The authorisations referred to in this Article shall be granted by the competent authorities free of charge.

Article 7

Vessels of the Contracting Parties shall be granted the right to free transit.

Article 8

1. Vessels as defined in Article 1(b) ii. shall not carry out cabotage within the territory of the Community, except in those cases where authorization is given by the competent authorities of the Member States of the Community where the goods or passengers are loaded and unloaded.

This provision shall not affect the current rights of Czech vessels to undertake cabotage between two German ports situated on the river Elbe when the water level on that river falls to less than 2.0 metres on the water level measuring post situated at Usti nad Labem.

2. By way of derogation from paragraph 1, vessels as defined under Article 1.(b)ii. shall be allowed to carry out a single cabotage operation between two Community ports on the direct return journey following unloading in a Community port as a part of a direct traffic operation. When such cabotage operations take place between two ports situated

within one State, they shall be subject to authorization by the competent authorities of the State concerned.

3. Vessels as defined in Article 1(b) i. shall not carry out cabotage within the territory of one of the other Contracting Parties, except in those cases where authorization is given by the competent authorities of the Contracting Party concerned.
4. By way of derogation from paragraph 3, vessels as defined under Article 1(b) i. shall be allowed to carry out a single cabotage operation between two ports situated within the territory of another Contracting Party on the direct return journey following unloading in a port of that Contracting Party as part of a direct traffic operation.
5. Vessels undertaking transport operations as defined in paragraphs 2 and 4 shall be in possession of such documentation as to allow the competent authorities to verify the nature of the return journey.

CHAPTER IV - MARKET REGIME

Article 9

Inland waterway transport operations as referred to in Article 6 shall be undertaken in accordance with the principles of a free market, and shall not be subject to obligatory tariffs, quotas or other restrictive provisions.

Article 10

1. By way of derogation from Article 6.1 and Article 9., a transitional market regime shall apply to the carriage of goods and passengers in direct traffic between Community ports situated within the territory of the Federal Republic of Germany and ports situated within the territory of the other Contracting Parties.
2. With regard to direct traffic as defined in paragraph 1., vessels of the Community and the other Contracting Party concerned shall each hold an equal market share. This provision shall not apply to direct traffic between Community ports situated within the territory of the Federal Republic of Germany and ports situated within the territory of the Czech Republic when the water level on the river Elbe falls to less than 2.0 metres on the water level measuring post situated at Usti nad Labem and to direct traffic between Czech ports and the seaport of Hamburg. Subject to agreement in the Joint Committee, Czech vessels may also be allowed to carry a greater market share in direct traffic between Czech ports and other seaports of the Federal Republic of Germany;
3. Direct traffic as defined in paragraph 1. shall be subject to obligatory tariffs to be agreed within the framework of the Joint Committee. Such obligatory tariffs as apply to these transport operations at the moment of entry into force of this agreement shall serve as a basis for the setting of obligatory tariffs by the Joint Committee.
4. Third contracting party traffic between Community ports situated within the territory of the Federal Republic of Germany and ports situated within the territory of the other Contracting Parties shall only be allowed in those cases where authorization is given both by the competent authorities of the state where the goods or passengers are loaded and by the competent authorities of the state where the goods or passengers are unloaded.
5. The provisions of this Article shall apply until 1 January 2000.

CHAPTER V - MARKET OBSERVATION

Article 11

1. For each transport operation within the scope of this agreement the boatmaster shall, upon passing the external frontier of the Community or of another Contracting Party except in the case of transit, present to the competent authorities of the Contracting Parties concerned a document giving the information indicated in Annex 2.
2. The final form of the document mentioned in paragraph 1 is to be established by the Joint Committee.
3. On the basis of the documents referred to in paragraph 1 and other information at their disposal, the competent authorities of the Contracting Parties concerned shall forward to the Joint Committee such information as is required for the fulfilment of its tasks as laid down in article 15.2.

CHAPTER VI - TECHNICAL PROVISIONS

Article 12

1. Transport operations within the scope of this Agreement shall be subject to the legal provisions regarding vessels, crew members, passengers and cargoes which are in force on the waterways where they are carried out. However, as regards technical ship's certificates and boatmasters' certificates, the following shall apply:
 - On the Rhine, technical ship's certificates and boatmasters' certificates shall be issued in accordance with the current procedures, whereby the competent authorities shall take into consideration the corresponding documents relating to vessels and crew members of vessels not belonging to the Rhine Navigation;
 - On the other waterways concerned, the requirements as laid down in Council Directive 82/714/EEC on technical ship's certificates and Council Directive 96/50/EC on boatmasters' certificates shall apply. The Contracting Parties other than the Community shall take the necessary measures to this effect and shall notify the European Community thereof by addressing copies to the European Commission. The corresponding attestations and documents shall be issued by the competent authorities of the country of registration of the vessel and shall be recognised by the Contracting Parties.
2. Vessels may carry dangerous goods only if they comply with the requirements contained in the ADNR Regulation.
3. Crew members and spouses and children travelling with them must be included in a crew's list carried on board the vessel.

CHAPTER VII - OPERATION OF SHIPPING COMPANIES

Article 13

1. Shipping companies established in the Community shall be allowed, subject to existing legislation:
 - to set up shipping agencies on the territory of the other Contracting Parties to give general logistic and commercial support to their vessels and their crews;
 - in order to further improve the commercial performance of their services, to conclude cooperation agreements with companies in the other Contracting Parties.

2. Shipping companies established in the other Contracting Parties shall be allowed, subject to existing legislation:
 - to set up shipping agencies on the territory of the Community to give general logistic and commercial support to their vessels and their crews;
 - in order to further improve the commercial performance of their services, to conclude cooperation agreements with companies in the Community.

CHAPTER VIII - AID IN THE EVENT OF AN ACCIDENT

Article 14

1. In the event of an accident, serious illness of a person on board, damage to the vessel, or force majeure making it impossible to continue the voyage or to return to the country of origin, vessels may moor at any suitable point. In such cases, the boatmaster or the person in charge of the vessel shall inform the competent authorities concerned as soon as possible.
2. The Contracting Parties shall, subject to the laws in force on the waterways concerned, render necessary aid in the event of an accident on their territory involving vessels and/or persons of the other Contracting Parties. This provision shall also apply in the event of illnesses requiring immediate medical attention.
3. In the event of a serious accident within the territory of one Contracting Party involving vessels and/or persons of another Contracting Party, the authorities of the Contracting Party where the accident occurs shall immediately inform the competent authorities of the other Contracting Party. The Contracting Party on whose territory the accident occurs shall take the necessary measures to establish the cause of the accident and shall also, whilst respecting national law, inform the other Contracting Party concerned of the findings and transmit any records and documentation necessary for the settlement of damages to the other Contracting Party.

CHAPTER IX - JOINT COMMITTEE

Article 15

1. A Joint Committee shall be established which shall be charged with the supervision and application of the terms of this agreement. Each Contracting Party shall be represented on the Committee by two members. The Contracting Parties may invite relevant experts to advise them. As a general rule, the Committee shall meet at least twice each year. The Contracting Parties shall chair the Committee for an annual period in the order indicated in Article 1(a). The Joint Committee shall draw up its rules of procedure.
2. The Joint Committee has in particular the following tasks and obligations :
 - to draw up a list of competent authorities responsible for the tasks given in Annex 1 and amend this as necessary;
 - to monitor and analyze trends and developments in inland waterway transport within the scope of this agreement;
 - to monitor the application of this agreement by the Contracting Parties and to resolve such issues, problems and disputes as arise out of such application ;
 - to supervise the administration by the competent authorities of the transitional market regime referred to in Article 10, and to set the tariffs referred to in Article 10.3 ;
 - to exchange views on the development of rules governing inland waterway transport within the scope of this agreement, and to develop ideas on adapting these rules to developments and changes in the inland waterway sector.
3. In so far as the Joint Committee is required to make decisions on matters, unanimity of the Contracting Parties shall be required. In the event that unanimity cannot be achieved in the Joint Committee, then the competent authorities shall, following a request by one or more of the Contracting Parties, meet for consultation within a period of 6 weeks.

Article 16

The competent authorities of the Contracting Parties shall provide to the Joint Committee such documents and information as is necessary for the Committee to carry out its functions.

CHAPTER X - OBLIGATIONS AND REDRESSIVE MEASURES

Article 17

1. The Contracting Parties shall take any general or specific measures required to fulfil their obligations under this Agreement.
2. If a Contracting Party considers that another contracting party has failed to fulfil an obligation under this Agreement, it may take appropriate measures. Before doing so, except in cases of special urgency, it shall supply the Joint Committee with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the parties.

In the selection of measures, priority must be given to those which least disturb the functioning of this Agreement. These measures shall be notified immediately to the Joint Committee and shall be the subject of consultations within the Joint Committee if another Contracting Party requests.

CHAPTER XI - OTHER PROVISIONS

Article 18

Sport and leisure craft of the Contracting Parties may use the waterways on the territory of the Contracting Parties subject to the rules and regulations which apply on these waterways.

CHAPTER XII - INSTITUTIONAL, GENERAL AND FINAL PROVISIONS

Article 19

Annexes 1 and 2 and Protocols 1 and 2 shall form an integral part of this Agreement.

Article 20

This Agreement shall apply to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and to the territory of the Czech Republic, Poland and Slovakia.

Article 21

1. This Agreement is drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Czech, Polish and Slovakian languages, each of these texts being equally authentic.

2. It shall be deposited with the General Secretariat of the Council of the European Union which shall transmit certified copies to all other signatories.

Article 22

1. This Agreement is concluded for a period of 5 years. Without prejudice to paragraphs 2 and 3, it shall be automatically extended for successive periods of 5 years.

2. The Contracting Parties may, by mutual agreement, modify the terms of this Agreement.

3. A Contracting Party may withdraw from this Agreement by notifying the other Contracting Parties. The Agreement shall cease to apply to this Contracting Party six months after such notification.

Article 23

The rights and obligations arising from agreements concluded before the entry into force of this Agreement between one or more Contracting Parties on the one hand, and one or more other countries on the other hand, shall not be affected by the provisions of this Agreement.

Bilateral agreements between Member States of the Community on the one hand and other Contracting Parties on the other hand concerning the carriage of goods and passengers by inland waterways shall be replaced by this Agreement.

Article 24

1. This Agreement shall be subject to ratification, acceptance or approval by the signatories in accordance with their own procedures. Instruments of ratification, acceptance or approval shall be deposited with the General Secretariat of the Council of the European Union, which shall notify all other signatories.

2. This Agreement shall enter into force on the first day of the second month following the date of deposit of the instruments of ratification, acceptance or approval by the Community and two other signatories. For each state which ratifies, accepts or approves this Agreement after such date, it shall enter into force on the first day of the second month following the deposit by such state of its instrument of ratification, acceptance or approval.

In witness whereof the undersigned plenipotentiaries have signed this Agreement in on the day of 19

ANNEX 1

Tasks to be carried out by the Competent Authorities as referred to in Article 15.2 first indent

The Competent Authorities referred to above shall, for the purposes of this Agreement and according to their responsibilities, carry out the following tasks:

- the issue of authorisations for third contracting party traffic, non-contracting party traffic and third country traffic as referred to in Article 6 and Article 10.4 of this Agreement;
- the issue of authorisations for cabotage as referred to in Articles 8.1, 8.2 and 8.3;
- the collection of the documents referred to in Article 11.1 of this Agreement and given in Annex 2, and the forwarding of the information referred to in Article 11.3 to the Joint Committee;
- the issue of technical ship's certificates and certificates of professional competence for boatmasters, as referred to in Article 12.1 ;
- any actions necessary in the event of accident in order for the Contracting Parties to be able to fulfil their obligations as laid down in Article 14 of this Agreement;
- any other actions which may contribute to the proper functioning of this Agreement.

ANNEX 2

Document to be Presented to the Competent Authorities when Crossing the External Frontier of the European Community or another Contracting Party

For the purposes of Article 11 and for the purpose of helping to ensure the effective implementation of this Agreement, a document containing the information indicated in this Annex shall be used. The final form and specifications of the document shall be decided by the Joint Committee provided for in Article 15. The document shall be issued in a commonly agreed official language of the European Community which is widely used and recognised in the inland waterway international transport sector and, where necessary, in bilingual form to include the official language of the competent authority issuing the document.

This form is to be completed as appropriate and handed in to the Competent Authorities on crossing the external border of the European Community on the RETURN journey

Identification of the Vessel	
Name	Nationality/Flag
Home Port (and region)	

PART 1 - OUTWARD JOURNEY

LOADING	
SECTION A - To be completed by the Consignor	
Place of loading (Port and Country)	
Commodity (NST code)	
Quantity in tonnes	
Destination (Port and Country)	
Confirmation/Stamp of Consignor	Date

BORDER CROSSING - OUTWARD	
SECTION B - To be completed by the Competent Authority at the border crossing	
Date of border crossing	
Confirmation/Stamp	

UNLOADING	
Section C - To be completed by the Consignee of the goods described in SECTION A	
Goods received	
Confirmation/Stamp of Consignee	Date

PART 2 - RETURN JOURNEY

CABOTAGE	
SECTION D - To be completed by the Consignor and Consignee if a consecutive cabotage transport operation is carried out following unloading of the goods as described in SECTION C	
Place of loading (port, region, country)	
Commodity (NST)	
Quantity	
Confirmation/Stamp of Consignor	Date
Goods Received	
Place of unloading (port, region, country)	
Confirmation/Stamp of Consignee	Date

LOADING FOR RETURN JOURNEY	
SECTION E - To be completed by the Consignor of goods to be carried across the external border of the European Community on the RETURN journey	
Place of loading (port, region, country)	
Commodity (NST)	
Quantity	
Destination	
Confirmation/Stamp of Consignor	Date

BORDER CROSSING - RETURN	
SECTION F - To be completed by the Competent authority at the border crossing on the RETURN journey	
Date of border crossing	
Confirmation/Stamp	

PROTOCOL 1

Relating to the Requirements for Vessels carrying Dangerous Goods and other Technical Requirements as referred to in Article 12

The Contracting Parties agree that the provisions of this Agreement relating to the international carriage of dangerous goods by inland waterway shall be updated as necessary so as to further facilitate the transport of such goods by inland waterway.

In particular, recognising that a Pan-European legal instrument for regulating the international carriage of dangerous goods by inland waterway does not yet exist, and being aware that a European Agreement concerning the international carriage of dangerous goods by inland waterways is currently being prepared by the International Working Group established for this purpose by the Inland Transport Committee of the UN Economic Commission for Europe in January 1995, the Contracting Parties affirm their intention to amend the present Agreement in line with such a legal instrument should it be adopted in the future.

The Contracting Parties further agree that the technical provisions governing inland waterways, referred to in Article 12, have to be updated periodically in the interests of safety and technical progress. Such updated provisions, once formally adopted by the Community, shall take the place of the current provisions referred to in Article 12.1 second indent.

PROTOCOL 2

Requirements Relating to Knowledge of Certain Local Sections of the Danube ("Streckenkenntnis")

1. The Contracting Parties agree that, for the purposes of navigation on certain difficult sections of the Danube, the riparian states concerned by the present Agreement may require boatmasters holding the certificates referred to in Article 12.1 to complete a certain minimum number of trips through specified sections of the Danube under the supervision of a qualified pilot before allowing the holders of such certificates to navigate unassisted on these sections.

The sections of the Danube concerned and the minimum number of supervised trips shall be fixed by the Competent Authorities after discussion in the Joint Committee. In no case shall the minimum number of trips required exceed 8 upstream and 8 downstream trips.

2. The requirements laid down in paragraph 1 may be modified by a decision of the Joint Committee.

DECLARATION

Joint Declaration by the Czech Republic, the European Community and Slovakia Concerning a Future Revision of the 1948 Convention Concerning the Regime for Navigation on the Danube

Taking account of the fact that the Parties to the 1948 Convention concerning the Regime for Navigation on the Danube are currently discussing a possible revision of that Convention, the Contracting Parties agree that the present Agreement does not prejudice the outcome of any such revision.

DECLARATION

Joint Declaration by the Czech Republic and the European Community regarding infrastructure development

The Czech Republic and the European Community, considering:

- that Article 82 of the Europe Agreement which establishes an association between the Community and the Czech Republic requires the Contracting Parties to develop and step up cooperation in the transport sector and to give priority to the construction and modernisation of infrastructure on major routes of common interest, including inland waterways, and

bearing in mind:

the Agreement in the form of an exchange of letters replacing the exchanges of letters between the Community and the Czech and Slovak Federal Republic on land transport infrastructure signed in Brussels on 16 December 1991 which is attached to the Europe Agreement which establishes an association between the Community and the Czech Republic, and

recognising:

- that the growth in East-West traffic in Europe is already placing great strain on the road network, that this traffic is set to grow further and that utilisation of the full capacity of the waterways concerned could contribute significantly to a reduction in the adverse environmental effects of transport in the region;
- that there exist certain bottlenecks and infrastructure shortcomings on the waterways linking the Czech Republic to the centre of the European Community;
- that the Council of the European Union has adopted Community guidelines for the development of the Trans-European Transport Network which identified the improvement of the Mittelland Canal and the links on the Elbe to the Czech border as projects of Common Interest,

hereby declare their joint resolve to cooperate and use the means at their disposal for this purpose to facilitate the improvement of infrastructure on the waterways linking the Czech Republic to the centre of the European Community.

DECLARATION

Joint Declaration by the Community and Slovakia regarding infrastructure development

The Community and Slovakia, considering :

- that Article 82 of the Europe Agreement which establishes an association between the Community and Slovakia requires the Contracting Parties to develop and step up cooperation in the transport sector and to give priority to the construction and modernisation of infrastructure on major routes of common interest, including inland waterways, and

bearing in mind:

the Agreement in the form of an exchange of letters replacing the exchanges of letters between the Community and the Czech and Slovak Federal Republic on land transport infrastructure signed in Brussels on 16 December 1991 which is attached to the Europe Agreement which establishes an association between the Community and Slovakia, and

recognising:

- that the construction of the Main-Danube canal has resulted in a waterway which links the North Sea to the Black Sea and that the dimensions of this canal are large enough to allow vessels of the European classes IV and V to operate on this route;
- that the Upper Danube waterway currently suffers from certain infrastructure shortcomings, the main problem being that the water depth between Regensburg and Budapest is frequently not sufficient to allow vessels with the design draught of 2.80 meters to operate on this stretch, and that these shortcomings prevent it from achieving its full potential as a transport corridor;
- that the aforementioned shallow spots occur on the territory of each of the three riparian states concerned by this Agreement;
- that the growth in East-West traffic in Europe is already placing great strain on the road network, that this traffic is set to grow further and that utilisation of the full capacity of the Upper Danube waterway could contribute significantly to a reduction in the adverse environmental effects of transport in the region;
- that the Second Pan-European Transport Conference in Crete in March 1994 identified the Danube and its ports as the seventh of the 9 transport corridors in Central and Eastern Europe to be considered as a starting point for future work on coherent infrastructure development at pan-European level;

- that the Council of the European Union has adopted Community guidelines for the development of the Trans-European Transport Network which identified the improvement of the Upper Danube as a project of Common Interest,

hereby declare their joint resolve to use the means at their disposal for this purpose to facilitate the improvement of infrastructure on the Upper Danube and thereby to achieve the full potential of the waterway as a transport corridor. The Contracting Parties further agree that a joint development plan should be drawn up as a first step, making use of existing studies, ongoing studies such as the PHARE-funded Danube Corridor Development Plan and national plans and including technical solutions and financing options, that this plan should be discussed and developed in the appropriate fora and that it should be coordinated with TENs project proposals

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