



European Communities

EUROPEAN PARLIAMENT**SESSION DOCUMENTS**

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22 October 1990

A3-0259/90

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SECOND REPORT

of the Committee on Transport and Tourism

on the proposals from the Commission to the Council for:

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

(COM (89) 0266 final - C3-0126/89)

Rapporteur: Mr Pavlos SARLIS

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PE 140.216/fin. 2

A Series: Reports - B Series: Motions for Resolutions, Oral Questions - C Series: Documents received from other Institutions (e.g. Consultations)

*	= Consultation procedure requiring a single reading
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**II	= Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment
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**I	= Cooperation procedure (first reading)
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***	= Parliamentary assent which requires the votes of a majority of the current Members of Parliament
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At the sitting of 10 September 1990 the first report was referred back to the Committee on Transport and Tourism pursuant to Rule 103 of the Rules of Procedure.

At its meeting of 27 September 1989 the committee had appointed Mr Sarlis rapporteur.

At its meeting of 22 October 1990 it considered the draft second report.

At the last meeting the committee decided:

Proposal I : by 17 votes to 2, with 2 abstentions

Proposal II : by 15 votes to 1, with 4 abstentions

Proposal III : by 13 votes to 0, with 8 abstentions

to recommend to Parliament that it approve the Commission proposals, subject to the following amendments.

The committee then adopted the draft legislative resolutions.

Proposal I : by 17 votes to 2, with 2 abstentions

Proposal II : by 16 votes to 1, with 4 abstentions

Proposal III : by 13 votes to 2, with 5 abstentions.

The following were present for the vote: Amaral, chairman; Sarlis, rapporteur; Anastassopoulos (for Bonetti), Bettini (for Fernex), Bourlanges, Denys, Hadjigeorgiou (for Fantini), Joanny, Lalor (for Marleix), Lüttge, Newton-Dunn (for McMillan-Scott), Pasmazoglou (for Müller), Pierros (for Romera i Alcazar), Porrazzini, Rosmini (for Iacono), Sapena Granell, Schodruch, Siso Cruellas (for Christensen), B. Simpson, Stewart, van der Waal and Visser.

The opinion of the Committee on Social Affairs and Employment is attached.

The report was tabled on 22 October 1990.

The deadline for tabling amendments is 12 noon on 24 October 1990.

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A

- I. Commission proposal for a Council regulation establishing a Community ship register and providing for the flying of the Community flag by sea-going vessels

Text proposed by the Commission of the European Communities

Amendments tabled by the Committee on Transport and Tourism

Preamble and first recital unchanged

Recital No. 2

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;

Amendment No. 1

Recital No. 2

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

Amendment No. 2

Recital No. 2a

Whereas the Community fleet may be made more competitive by adopting economic measures similar to those implemented in respect of the merchant shipping of other countries and whereas a suitable combination of such measures is the only way in which the operating conditions on Community vessels can be brought in line with those on vessels flying other flags; whereas a special form of taxation should be adopted for vessels which are registered in the Community register to replace all forms of taxation on Community shipowners; also seafarers employed on vessels registered in EUROS and, more generally, on all vessels flying the flags of the twelve Member States should be expressly exempt from income tax;

Amendment No. 3

Recital No. 3

Whereas the fleet flying Member States' flags has suffered a 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;

Recital No. 3

Whereas the fleet flying Member States' flags has suffered a 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; whereas also the invisible earnings of the Member States of the Community have declined, the comparative advantage of Community shipping has been eroded and the Community's strategic potential has declined;

Amendment No. 4

Recital No. 4

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;

Recital No. 4

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 subsidies for the functioning thereof or subsidizing related sectors have adverse effects and result in a distortion of free and fair competition and situations which are unacceptable from a social viewpoint;

Amendment No. 5

Recital No. 4a (new)

Whereas the first phase of a Community merchant shipping policy is of vital importance and it must be fully implemented forthwith;

Amendment No. 6

Recital No. 4b (new)

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 may cause dispersion;

Amendment No. 7

Recital 4c (new)

Whereas the provisions in the Lomé Convention relating to shipping, urging freedom to provide shipping services between the Community and the ACP States and ratification of the UN Code of Conduct for liner conferences and the related resolutions on the subject should actually be implemented;

Amendment No. 8

Recital No. 5

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;

Recital No. 5

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 maintain employment among Community seafarers at the highest possible level;

Amendment No. 9

Recital No. 5a (new)

Whereas there is a need for economic retraining measures and social measures benefiting the surplus workforce in the sector concerned in the Member States;

Amendment No. 10

Recital No. 6

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

Whereas this aim cannot be attained without a reduction of the cost level but manning costs are not a significant proportion of overall costs;

Amendment No. 11

Recital No 6a (new)

Whereas this freedom should be subject to conditions which take due account of public service needs and other security obligations;

Amendment No. 12

Recital No. 6b (new)

Whereas Community level is the most appropriate level for considering reductions in financial, port and commercial charges;

Amendment No. 13

Recital No. 7

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

Recital No. 7

Delete

Amendment No. 14

Recital No. 8

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;

Recital No. 8

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

Amendment No.15

Recital No. 8a (new)

Whereas the registration of a vessel on the Community register should be accompanied by fiscal and financial incentives, whereby shipowners would be offered the uniform option of Community law in addition to the various national measures, to offset the extra costs incurred in not placing certain vessels under the favourable terms of the open registers of third countries; and whereas this might also increase employment of Community seafarers;

Amendment No. 16

Recital No. 9

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

Whereas the Community ship register will be additional to the national register and should be introduced without delay in order to discourage the trend towards setting up secondary registers;

Amendment No. 17

Recital No. 10

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;

Recital No. 10

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 also have genuine links with third countries;

Amendment No. 18

Recital No. 11

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;

Recital No. 11

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;

Amendment No. 19

Recital No. 11a (new)

Whereas a Community register of shipping will be useful only if the conditions for registration include adequate incentives for Community shipowners to enter their vessels on that register;

Amendment No. 20

Recital No. 12

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

Recital No. 12

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

Recital No. 13

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

Recital No. 14

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

Amendment No. 21

Recital No. 13

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

Amendment No. 22

Recital No. 14

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

Amendment No. 23

Recital No. 14a

Whereas in order to ensure uniform crew composition for each category of vessel and degree of automatization, in view of the substantial divergences that exist between national legislations on this matter, the composition of the crew of a vessel registered in EUROS must be laid down at the time of its registration 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;

Recitals Nos. 15, 16 and 17 unchanged

Amendment No. 24

Recital No. 18

Whereas registration in this register should be reflected in the right and obligation to fly the European flag;

Recital No. 18

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 the flags of Member States;

Amendment No. 25

Recital No. 18a (new)

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 third countries;

Amendment No. 26

Recital No. 19

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

Recital No. 19

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

Recitals Nos. 20 and 21 unchanged

Amendment No. 27

Recital No. 21a (new)

Whereas the Commission should 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 assessing the effectiveness of this regulation, and whereas the Commission should if necessary propose the modifications and improvements required;

Amendment No. 28

Recital No. 21b (new)

Having regard to the urgent need for action against marine ecological disasters, which are in part caused by sea transport;

Amendment No. 29

Article 1 - Objective

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.

Article 1 - Objective

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.
- measures aimed at not worsening the social situation of any seafarers (European or from third countries) and at improving environmental and safety standards.

Section 2: The register, vessel owners and vessels

Article No. 2 - Establishment of the register

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.

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.

Amendment No. 30

Article No. 2 - Establishment of the register

A Community ship register called EUROS is hereby established in which sea-going merchant vessels may be registered in addition to their national registration in a Member State. The second register shall not be included in the national register.

The Commission shall register upon application, 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.

Amendment No. 31

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

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

- (a) nationals of the Member States established in a Member State and pursuing shipping activities;
- (b) a shipping company formed in accordance with the law of a Member State and having its principle 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.
- (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.

Article 3 - Persons entitled to
request the 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;
- (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, provided that a majority of the members of the board or of the directors of these companies are nationals of the Member States who have their domicile or usual residence in the Community.
- (c) Companies which have been formed in accordance with the legislation of a Member State and in which nationals of Member States participate by more than 50% or are company shareholders controlling more than 50% of the overall company capital.

(d) Companies formed in accordance with the legislation of a third country in which nationals of Member States participate by more than 50% or are company shareholders controlling more than 50% of the overall company capital.

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

(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) 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';

(3) Where it has been agreed between a third country and the Community that registration of vessels in the register of a third country and in EUROS 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.

Amendment No. 32

Article 4 - Vessels eligible for registration

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:

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

Article 4 - Vessels eligible for registration

Eligible for registration in EUROS is any sea-going merchant vessel with a total tonnage of at least 500 grt built or under construction, which is already registered in a Member State (~~delete 10 words~~) and is used or to be used (~~delete 10 words~~) 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 provisions of Article 5;

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

(b) The vessel must be owned, (delete 12 words) and for the duration of its registration in EUROS remain owned, (delete 15 words) by a Community vessel owner;

(c) The vessel shall not be more than 20 years old unless it has been completely refurbished and certified as 'sea-worthy' by a Member State.

Amendment No. 33

Article 4a: 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 port 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 mortgagees 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, recorded in the EUROS.

Amendment No. 34

Article 4(b): 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 notify the Commission.

Amendment No. 35

Article 4c - Certificates and documents of vessels

1. 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.

Amendment No. 36

Article 4(d) - 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.

Amendment No. 37

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

Article 5 - Bare-boat charters

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

SECTION 3: Safety, manning and crew

Amendment No. 38

Article 6 - Safety

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

Article 6 - Safety

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

Amendment No. 39

Article 6a: Manning

1. Guidelines concerning the manning for 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 16.
2. The Commission shall take into account in adopting the guidelines 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 a minimum manning certificate in conformity with paragraphs 1 and 2 and shall deliver it 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 paragraphs 1 and 2, the Commission will carry out investigation and will take a decision after consultation with the Member State concerned. The Commission will take the decision within two months from 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.

(Amendment No. 40)
Article 7

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

Trainees do not count towards meeting the requirements above.

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

Trainees do not count towards meeting the requirements above.

2. In particular, passenger vessels or ferries registered in EUROS which operate regular lines for passengers or passengers and 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.

(Amendment No. 41)

Article 7a (new)

1. The Member States shall provide for monitoring on a permanent basis of the availability of seafarers nationals of Member States in their ports and make the information so obtained available to interested parties.
2. Where seafarers nationals of the Member States are not available for employment in a vessel registered in EUROS, that lies in a 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 with fewer seafarers nationals of the Member States, than those provided in Article 7.

(Amendment No. 42)

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.

Wages, working hours and further labour conditions.

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.

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 9.

(Amendment No. 43)

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 of the right to organize.

Collective wage agreements

1. If Community vessel owners who have registered the vessels which they own 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 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 trade union or organization does not satisfy the conditions of ILO Convention No. 87 concerning the freedom of association and protection of the right to organize.

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

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 and from individual labour contracts drawn up in accordance with and in implementation of a collective wage agreement.

Amendment No. 44

Article 10 - Social Security

Without prejudice to Article 13(2)(c) of Council Regulation (EEC) No. 1408/71¹ 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 a 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 10 - Social Security

Without prejudice to Article 13(2)(c) of Council Regulation (EEC) No. 1408/71¹ and in the absence of a contrary agreement at the level of governments or social partners, the country in which the seafarer is usually resident shall be obliged to provide social security for seafarers working on vessels registered in EUROS, 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 of the country of usual residence.

For the purpose of this provision residence means residence on shore and work on board a vessel registered in a Member State shall not, of itself, be considered as being residence in that State.

Articles 11, 12 and 13 unchanged

Amendment No. 45

Article 13a - Taxation of vessels

1. Each vessel, from the time of its registration in EUROS until its deletion from EUROS, shall be subject to an annual tax in accordance with the provisions of this Article.

2. This tax shall be imposed on the Community vessel owner referred to in EUROS on the first day of each calendar year.

The following shall be jointly and severally responsible along with the Community vessel owner for paying the tax:

- (a) Any person managing the vessel after appointment by the Community vessel owner or any other authority or appointed on any other grounds.
- (b) In the event of voluntary transfer of ownership, the new Community vessel owner.

3. The tax imposed in accordance with the provisions of this Article shall absolutely absolve the Community vessel owner, whether he is a natural or legal person, and the partners or shareholders of the Community vessel owner from the obligation to pay any form of income tax on profits arising out of the operation of the vessel or any other type of tax on the vessel provided for or to be provided for in the national legislations of the Member States.

The following shall also be considered exempt from any form of income tax or other form of taxation provided for in the national legislation of the Member States:

- (a) The amount received from the sale of the vessel;
- (b) The insurance compensation received for loss of or damage to the vessel;
- (c) The net profits or dividends distributed to the partners or shareholders of the Community vessel owner, and

- (d) The net profits or dividends distributed to the shareholders of a holding company which holds exclusively shares of companies owning vessels registered in EUROS.

Where the Community vessel owner is engaged in other business in addition to operating a vessel he shall be exempt from any type of income tax provided for by the national legislations of the Member States only in respect of the income arising from the operation of the vessel and only in respect of that part of the net profits or dividends distributed to partners or shareholders which is equivalent to the ratio between the gross earnings generated by the vessel and the aggregate gross earnings of the Community vessel owner.

4. The tax shall be calculated on the basis of the age of the vessel and its gross registered tonnage as follows:

Age of the vessel Coefficients

<u>Years</u>	<u>ECUs per grt</u>
<u>0 - 4</u>	<u>0.53</u>
<u>5 - 9</u>	<u>0.95</u>
<u>10 - 19</u>	<u>0.93</u>
<u>20 - 29</u>	<u>0.88</u>
<u>30 and over</u>	<u>0.68</u>

The above sums shall be multiplied according to categories of grt by the following coefficients:

Categories of grt Coefficients

<u>3000-10000</u>	<u>1.2</u>
<u>10001-20000</u>	<u>1.1</u>
<u>20001-40000</u>	<u>1</u>
<u>40001-60000</u>	<u>0.9</u>

Taxation for a vessel with a tonnage in excess of 60 000 grt shall be equal to the tax imposed on a vessel of 60 000 grt which is between 6 and 9 years old increased by two and a half percent (2.5%) for each additional 10 000 GRT or part thereof. The grt of a vessel shall be that given in EUROS. Where a vessel has been issued with a measurement certificate specifying multiple grt, the tax shall be calculated on the basis of the average grt recorded.

5. Where conclusive evidence is provided that a vessel has been laid up owing to repairs, a lack of employment or any other reason, the tax shall be reduced in proportion to the number of the laid-up days, where these are more than thirty (30). The laying-up of a vessel shall be considered established where it is vouched for by the competent authority of the port where the vessel is laid up, or in the absence of such an authority, by a legally certified copy of the vessel's logbook.

6. Vessels built in a Community country shall not be liable to taxation before they are six years old.

7. Vessels operating scheduled lines between Community ports or between Community ports and ports of third countries or between ports of third countries and ports of other third countries and vessels operating cruises shall be liable to 50% of the amount of the tax.

8. The annual tax due shall be paid in advance by the Community vessel owner wholly or partly in European currency units (ECU) to the national authority of the Member State in whose national register the vessel is registered on the basis of a statement by the Community vessel owner submitted to this Authority by the end of February of the year in question and shall constitute revenue of this State.

9. The national authorities shall lay down the procedure for confirming and collecting the tax, refunding the tax where ships are laid up and the sanctions for failure to submit a statement, for inaccurate or overdue statements or for failure to pay the tax.

10. A Community owner of a vessel registered in EUROS may opt to be subject to the taxation laws and regulations of the Member State of the national registration of his vessel by giving notice in writing to the Commission and to the competent authority of the Member State concerned with effect as at the first day of the next calendar year.

If the competent authority of the Member State does not object to the notice of option within one month from the date of serving, such notice becomes final and irrevocable and the provisions of paragraph 1 to 9 cease to apply.

The notice of option may be given in the manner aforesaid at the time of applying for the registration of the vessel in EUROS. In such a case, if the notice becomes final and irrevocable, the taxation laws and regulations of the Member State concerned shall apply as from the time of the registration of the vessel in EUROS.

11. The taxation laws and regulations of a Member State provided in paragraph 10 and their application shall be in conformity with Articles 92 and 93 of the EEC Treaty.

(Amendment No. 46)
Article 13b (new)

Granting of tax relief

Member States may grant the following tax relief to owners of vessels registered in their registries without prejudice to registration in EUROS:

1. In the field of company taxation:

- carrying over losses or profits from shipping activities to following financial years in respect of no more than three preceding years,
- tax exemption on the profit from selling vessels if reinvested in the purchase, modernization or conversion of another merchant vessel,
- early depreciation (10-12 years) involving rapid or extra-rapid depreciation,
- chartering or chartering-out a ship used in international trade to be treated in the same way as if the ship were purchased and operated by the same person or enterprise,
- door-to-door container services and investment in container and handling equipment to be regarded as international shipping activities for fiscal purposes

2. Other fiscal facilities:

- reduction in social security contributions by seafarers but without affecting the level of benefits,
- relief from excessive VAT and excise duty.

3. The taxation laws and regulations of a Member State referred to in Article 13a(10) and the application thereof shall be in conformity with Articles 92 and 93 of the EEC Treaty.

Amendment No. 47

Article 13c - Taxation of seafarers

1. Each Member State shall exempt those seafarers who have their domicile or usual residence in that Member State from income tax and wage tax in respect of all kinds of wages they receive for the period of their employment as members of the crew of a vessel registered in EUROS, such time being increased by the legal leave and, if any, sick leave.

2. Within twelve months of the adoption of this regulation Member States shall take whatever measures are necessary to extend this exemption from income tax and wage tax under the same conditions to seafarers who have their domicile or usual residence in the Member States and work on vessels registered only in the national registers of the Member States.

3. Amounts referred to in paragraph 1 are deducted from labour cost.

Amendment No. 48

Article 13d - Community aid

1. Subject to the availability of funds and the provisions to be established in accordance with paragraph 4, the Community shall grant financial contributions towards meeting additional outlays of operating vessels registered in EUROS as compared with the outlays of operating vessels registered in open registers of third countries offering the more favourable terms.

2. The following aid shall be deemed to fall in the category of special Community economic aid in the field of maritime transport to improve the competitiveness of vessels registered in EUROS:

- (a) Community aid to the owners of vessels registered in EUROS with the objective of
 - (i) modernizing their fleet
 - (ii) training of seafarers on board ships
 - (iii) assisting in restructuring plans
 - (iv) repatriating seafarers working on Community vessels
- (b) Community financial aid to the seamen pension fund institutions of the Member States of the Community by way of subsidy amounting to a percentage of the aggregate insurance contributions of the seafarers who are nationals of Member States and serve on vessels registered in EUROS and of their Community vessel owners, providing that the institutions covering these seafarers reduce the contributions they impose on these seafarers and Community vessel owners by the same percentage. This financial aid shall be apportioned between the seafarers and the Community vessel owner of the vessel on which they serve according to the ratio between the contribution of the seafarers and that of the Community vessel owner to a given pension fund.

3. The Community aid shall be granted only where the fiscal measures laid down in Articles 13A and 13B and other aid at Member State level, if any, are insufficient to make up for the difference in outlays mentioned in paragraph 1.

4. The Commission shall administer the Community contributions. It shall adopt the legislative and administrative provisions required for the purpose pursuant to Article 16.

Article 14 unchanged

Amendment No. 49

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 15 - Port of registration

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

Amendment No. 50

Article 15a - Rights in rem

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

Amendment No. 51

Article 15b - 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.

Amendment No. 52

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 16 - Implementing measures

The Commission shall, within six months after the adoption of this regulation, adopt the necessary 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 certificates concerning the right to fly the European flag, and the minimum manning certificate, the form of, and rules governing the flying of, the flag.

Amendment No. 53

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 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.

Amendment No. 54

Article 18 - Transitional period

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

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

Article 18 - Transitional period

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

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

- 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.

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

(b) take the necessary measures effectively to control compliance with the provisions of Articles 3, 4b, 4c, 4d, 5, 6a, 7, 12, 13, 13a and 13b 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.

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

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

Amendment No. 55

Article 18a (new)

The Commission shall make an annual report to the European Parliament and Council, beginning on 1 July 1992, on the number of vessels registered in EUROS, the composition of their crews and the effectiveness of Community and national aid measures. It shall also propose to the Council any additions to this regulation which may be required, which the Council shall adopt under the procedure laid down in Article 84(2).

Amendment No. 56

Article 18b (new)

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 unchanged

DRAFT LEGISLATIVE RESOLUTION

embodying the opinion of the European Parliament
on the Commission proposal to the Council for a regulation
establishing a Community shipping register and providing for
the flying of the Community flag by sea-going vessels

The European Parliament,

- having regard to the Commission proposal to the Council (COM(89) 266)¹,
 - having been consulted by the Council pursuant to Article 84(2) of the EEC Treaty (Doc. C 3-126/90),
 - considering the proposed legal basis to be appropriate,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Social Affairs and Employment (A 3-199/90),
 - having regard to the second report of the Committee on Transport and Tourism (A 3-259/90),
1. Approves the Commission proposal subject to Parliament's amendments and in accordance with the vote thereon;
 2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 3. Calls for the conciliation procedure to be opened if the Council should intend to depart from the text approved by Parliament;
 4. Asks to be consulted again should the Council intend to make substantial modifications to the Commission proposal;
 5. Instructs its President to forward this opinion to the Council and Commission and to the parliamentary committees responsible for shipping in the Member States for information.

¹ OJ No. C 263, 16.10.1989

Proposal for a Council regulation on a common definition of a Community shipowner

Preamble and first recital unchanged

Recital No. 2

Whereas to an increasing degree Community legislation refers to Community shipowners and there should be a common view on the identity of such a shipowner;

Recital No. 3

Whereas it is desirable to distinguish between companies owned by nationals of a third country or the majority of whose board consists of nationals of such a country and those which are owned or managed by Community nationals, taking into account that the former may themselves have acquired the same status as companies of the Member States by their establishment in a Member State;

Recital No. 4

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

Amendment No. 57

Recital No. 2

Whereas to an increasing degree Community legislation refers to Community shipowners and there should be a common view on the identity of such a shipowner, taking into account the basic principles of the Treaty;

Amendment No. 58

Recital No. 3

Whereas shipowners operating only vessels flying the flag of a third country may be considered Community shipowners only where they are nationals of a Member State and have their domicile or usual residence in a Member State or where they are companies formed according to the laws of a Member State which have their principal place of business in a Member State and are either managed or controlled by nationals of Member States;

Amendment No. 59

Recital No. 4

Whereas shipowners operating vessels flying the flag of a Member State could be considered Community shipowners provided that they are nationals of a Member State and have a genuine economic link with a Member State;

Articles 1 and 2 unchanged

Amendment No. 60

Article 3

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

Article 3

'A shipowner' means a natural or legal person providing a liner or tramp service in the field of maritime transport of passengers or goods or services by one or more sea-going vessels, which he or it owns or has chartered on the basis of a time charter or voyage charter.

Amendment No. 61

Article 4

The following shipowners are regarded as Community shipowners:

- 1a. a national of a Member State, who has his domicile or usual residence in a Member State;
- 1b. a shipping company or firm which is formed in accordance with the law of a Member State and which complies with the following requirements:
 - (i) the principal place of business is situated and the effective control exercised in a Member State and
 - (ii) the executive board consists of persons the majority of whom are nationals of a Member State or the majority of shares are owned by nationals of a Member State having their domicile or usual residence in a Member State

Article 4

The following shipowners are regarded as Community shipowners:

- 1a. a national of a Member State, who has his domicile or usual residence in a Member State;
- 1b. a company or firm which is formed in accordance with the law of a Member State and which complies with the following conditions:
 - (i) the principal place of business is situated and the effective control exercised in a Member State and
 - (ii) the majority of the members of its executive board or managers are nationals of a Member State and have their domicile or usual residence in a Member State or in which nationals of Member States participate by more than 50% or are shareholders controlling more than 50% of the overall company capital.

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

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

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

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

Amendment No. 62

Article 5

This Regulation shall enter into force on 1 January 1990.

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

Article 5

This Regulation shall enter into force on 1 January 1991.

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

DRAFT LEGISLATIVE RESOLUTION

embodying the opinion of the European Parliament
on the Commission proposal to the Council for a regulation
on a common definition of a Community shipowner

The European Parliament,

- having regard to the Commission proposal to the Council (COM(89)266)¹
 - having been consulted by the Council pursuant to Article 84(2) of the EEC Treaty (Doc. C 3-126/90),
 - considering the proposed legal basis to be appropriate,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Social Affairs and Employment (A 3-199/90),
 - having regard to the second report of the Committee on Transport and Tourism (A3-259/90),
1. Approves the Commission proposal subject to Parliament's amendments and in accordance with the vote thereon;
 2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 3. Calls for the conciliation procedure to be opened if the Council should intend to depart from the text approved by Parliament;
 4. Asks to be consulted again should the Council intend to make substantial modifications to the Commission proposal;
 5. Instructs its President to forward this opinion to the Council and Commission and to the parliamentary committees responsible for shipping in the Member States for information.

¹ OJ No. C 263, 16.10.1989

III. Proposal for a Council regulation applying the principle of freedom to provide services to maritime transport within Member States

Preamble and first recital unchanged

Amendment No. 63

Recital No. 2

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

Recital No. 2

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

Amendment No. 64

Recital No. 2(a)(new)

Whereas the creation of an internal market which covers a single area without internal frontiers will have to be compatible with the promotion of better living and working conditions for employees and with the concept of a public service

Recitals 3 and 4 unchanged

Amendment No. 65

Recital No. 4(a)(new)

Whereas the existing restrictions will be progressively abolished, apart from those on coastal traffic between the mainland and islands and between the islands themselves of the Member States; whereas for those regions the restrictions will be in accordance with the principles of national security, national strategic interests and public service.

Recital No. 5 unchanged

Amendment No. 66

Recital No. 5a

Whereas this freedom should be restricted for reasons of national security in the Member States and, notably, maritime transport services between the mainland and islands of the same Member State should be exempted from these Community provisions;

Recital No. 6 unchanged

Amendment No. 67

Recital No. 6a

Whereas the completion of the internal market is compatible with restrictions on the freedom to provide services due to reasons of national security and the continuation of sovereignty between the mainland and islands and between islands themselves;

Amendment No. 68

Recital 6(b)

Whereas Community level is the most appropriate level for considering reductions in financial, port and commercial charges;

Amendment No. 69

Recital 6(c)

Whereas the concept of a public service which is related to social welfare services and, by extension, covered by restrictions on the freedom to provide services is compatible with the Treaty;

Amendment No. 70

Recital No. 6(d)

Whereas the principle of freedom to provide maritime transport services must be implemented gradually so that the liberalization of services can be completed without serious adverse consequences for the living standards of the population of the regions referred to above and so as to enable firms to adapt to the new system without encountering serious financial difficulties;

Recital No. 7 unchanged

Amendment No. 71

Recital No. 7(a)(new)

Whereas special national circumstances and serious effects on employment may provide grounds for (temporarily) restricting cabotage rights;

Amendment No. 72

Recital No. 7(b)(new)

Whereas notwithstanding the foregoing, it is possible for a Member State to wish to opt out of the provisions of this regulation and to retain the prerogative of using national vessels for its coastal shipping where there are particular reasons for doing so, such as the development of a Member State's island regions, contributing to meeting its transport requirements, the employment of a large number of its seafarers and for reasons connected with national defence.

Amendment No. 73

Article 1

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

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

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

- (a) the carriage of passengers or goods by sea between ports in any one Member State, including overseas departments of that State (cabotage);
- (b) the carriage of passengers or goods by sea between any port in a Member State and installations or structures on the continental shelf of that Member State (off-shore supply services).

Article 1

1. Restrictions on freedom to provide maritime transport services within Member States shall be abolished in respect of the Community shipowners referred to in Article 4 of Regulation No. on a common definition of a Community shipowner where, in providing these services, they exclusively use vessels registered in the Community Ship Register not exceeding 6000 grt.

2. Delete

3. Unchanged

3a. For the purposes of the application of this Regulation the definition of 'Community shipowner' laid down in the Regulation establishing a Community ship register and providing for the flying of the Community flag shall apply.

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

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

Article 2 unchanged

Amendment No. 74

Article 2(a)

1. In the event of severe market disruption or serious imbalances between supply and demand in a given geographical area, the Commission shall, either on its own initiative or at the request of a Member State, take the necessary action to end the crisis or temporarily to rescind the licence to provide services.
2. Where a Member State puts a request to the Commission, the decision shall be adopted within thirty days of receipt of the request duly accompanied by the information considered relevant.
3. The Commission shall forward its decision to the Council and shall notify it to the Member States and the European Parliament. A Member State may appeal to the Council against the Commission's decision within thirty days of notification of it. The Council, acting by a qualified majority, may adopt a different decision within a period of thirty days from the submission of the Member State's application.

Articles 3,4 and 5 unchanged

Amendment No. 75

Article 5(a)(new)

A Member State shall be entitled, according to its national legislation, to deny the application of the provisions of this regulation in whole or in part in respect of:

- a) maritime transport services between the mainland and islands, the islands and the mainland or between the islands of a Member States,
- b) cruise vessels,

when this is justified for social reasons, maintaining employment, regional development or national security.

Amendment No. 76

Article 6

This Regulation shall be reviewed before 1 January 1993.

Article 6

The Commission shall prepare a detailed study in depth of the impact of the liberalisation of maritime transport services within a Member State on the social, economic and fiscal fields, the standard of living of the inhabitants of the regions affected, the means of maritime transport and the employment of seafarers.

On the basis of the study referred to above, the Commission shall submit a proposal for a review of this Regulation to the Council not earlier than 31 December 1995.

Amendment N. 77

Article 7

This Regulation shall enter into force on 1 January 1991.

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

Article 7

This regulation shall enter into force within three years after the entry into force of the Regulation implementing positive measures to assist competitiveness and the approximation of conditions for the operation of cabotage vessels.

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

DRAFT LEGISLATIVE RESOLUTION

embodying the opinion of the European Parliament
on the Commission proposal to the Council for a regulation
applying the principle of freedom to provide services to maritime
transport within Member States

The European Parliament,

- having regard to the Commission proposal to the Council (COM(89)266)¹,
 - having been consulted by the Council pursuant to Article 84(2) of the EEC Treaty (Doc. C 3-126/90),
 - considering the proposed legal basis to be appropriate,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Social Affairs and Employment (A 3-199/90),
 - having regard to the second report of the Committee on Transport and Tourism (A3-259/90),
1. Approves the Commission proposal subject to Parliament's amendments and in accordance with the vote thereon;
 2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 3. Calls for the conciliation procedure to be opened if the Council should intend to depart from the text approved by Parliament;
 4. Asks to be consulted again should the Council intend to make substantial modifications to the Commission proposal;
 5. Instructs its President to forward this opinion to the Council and Commission and to the parliamentary committees responsible for shipping in the Member States for information.

¹ OJ No. C 263, 16.10.1989

EXPLANATORY STATEMENTI. INTRODUCTION

1. The measures contained in the three proposals for Council regulations and the proposal for a Commission recommendation (hereinafter referred to as 'positive measures in favour of shipping') attached to the Commission's communication on 'A future for the Community Shipping Industry: Measures to Improve the Operating Conditions of Community Shipping' (COM(89) 266 final) are based on the realization that unless appropriate measures are taken as soon as possible, the Member States of the Community will not have a deep sea fleet and that, as a result, maritime trade with third countries will be almost exclusively in the hands of the latter.

As the Commission itself states, the object of these measures is to reverse this trend (see paragraph 3). The Commission considers that the only way to increase the tonnage of Community shipping and safeguard the jobs of Community seamen is to make the Community fleet more competitive internationally by improving the operating conditions.

The above conclusions of the Commission are correct and your rapporteur agrees with them.

2. However, the measures themselves put forward by the Commission to support and expand the Community's deep sea fleet (dry and liquid cargoes) are inadequate. As highly competent Community bodies have observed: 'The Commission's proposals are intended to complete the liberalization of maritime transport rather than to formulate a suitable policy to check the decline in the Community fleets and the adoption of flags of convenience'.

The Commission's proposals in their present form will not achieve the goals which the Commission itself has formulated. Their only value is that they establish a suitable basis (the Community register, EUROS) for a legal framework which remains to be established in future.

3. However, the crisis affecting the sea-going fleet of the Twelve is profound and seems to be here to stay, since not even the recent marked improvement in the international freight market has been able to check the decline.

If one accepts that (a) there are sound economic, political and social reasons why the Member States of the Community should maintain a large ocean-going fleet (b) in a single market of goods and services measures to support and develop this fleet must be taken at Community level and (c) no further delay is possible, one can only conclude that the Commission's proposals must be supplemented by measures which will make it economically advantageous to operate a deep sea vessel entered in the Community register rather than a vessel registered in a third country without, however, reducing the net pay of European seamen or affecting their acquired social security or other rights.

These then are the criteria on which your rapporteur has based his amendments to the draft regulation establishing 'a Community ship register and providing for the flying of the Community flag on sea-going vessels'.

4. Before going ahead with the analysis of the 'ratio' of the principal amendments, the following points require clarification:

- (a) Community deep sea shipping operates maritime transport services between Community ports and the ports of third countries and between the ports of one third country and those of another.

This type of shipping thus operates beyond the frontiers of the Community and is, as it were, an offshore undertaking in some respects beyond national and Community regulation: a special legal framework is therefore required establishing the rights and obligations of deep sea shipping. It should be noted that this form of maritime transport is governed by the OECD's Code of Liberalization of Current Invisible Operations of 1961 as subsequently amended. This Code which is binding for all Member States of the Community establishes the principle of freedom of competition in international maritime services and bans restrictive practices and flag discrimination measures.

- (b) The interests of and problems facing deep sea vessels are different from those facing other categories of shipping, and notably coastal vessels, cruise ships and vessels operating between ports of Community Member States and are often diametrically opposed.

A Community shipping policy must therefore take into account these differences, as it is often the case that a measure which would benefit deep sea shipping, for instance, would prove prejudicial to coastal shipping.

- (c) The new arrangements which are proposed for inclusion in the draft regulation establishing a Community ship register (taxation of vessels and seamen, the composition and nationality of crews, Community aid, etc.) only concern vessels which are registered in EUROS. This means that a vessel must be registered not only in the national register of a Member State, but also in the Community register.

However, would it not be possible for each of the twelve Member States to implement these new arrangements directly in respect of the vessels flying their flag, thereby rendering EUROS redundant?

The answer is no, and for the following reasons:

- (i) Experience has shown that the entry into force of new rules in the Member States is often delayed and their application, at national level, distorted; there is thus a danger that implementation would not be uniform in each Member State;
- (ii) The new arrangements are not only radical (for instance income tax is replaced by a special tax, a form of Community aid is instituted for the first time, etc.) and contrary to the general and usual arrangements prevailing in Member States but also constitute a 'jus specialis' since they concern a specific category of vessels (over 500 grt) and of persons (seamen and shipowners).

The system of a parallel Community register provides a guarantee that these new arrangements will remain 'jus specialis', that they will not be applicable to other cases and that their implementation will be uniform.

II. DRAFT REGULATION IN RESPECT OF EUROS

5. Vessels eligible for registration

It should be stressed that the registration of a vessel in EUROS is voluntary and deregistration is unrestricted. Only vessels less than twenty years old may be registered unless they have been completely rebuilt.

6. Manning

Article 6a proposes the establishment of a system for issuing a minimum manning certificate for each vessel; this certificate is to be issued by the Member State of registration in accordance with principles to be laid down by the Commission. A similar system is already implemented in the United Kingdom.

It will ensure uniform crew composition for each category of vessel and degree of automatization; it is therefore indispensable with regard to vessels registered in EUROS, given the considerable differences between national legislations on crew composition. The Commission will lay down guidelines governing the manning for each vessel on the basis of the principles set out in IMO Decision No. A 481(XII).

7. Taxation of vessels

The provisions of the new Article 13a introduce a self-contained system of taxation for vessels registered in EUROS which is independent of the individual tax laws of Member States.

The new arrangements are largely based on the Greek system of taxing vessels (Law No. 27/1975). This system which is the fruit of constructive cooperation between the Greek state and Greek vessel owners has been implemented for a number of years and has proved effective.

Under this system the state receives substantial tax revenues while public spending on confirming and monitoring tax statements and collecting the tax are insignificant. The fact that the tax is equitable and dissociated from the idea of 'profit' has made this system acceptable to ship owners and, indeed, it was the driving force behind the expansion of the Greek merchant shipping in the 1970s.

The principal features of the proposed system are as follows:

- (a) The tax is always imposed on the owner of the vessel, the 'Community vessel owner' referred to in Article 4, who may or may not be the same as the shipowner. Payment of the tax wholly absolves the owner from any obligation to pay income tax on profits or any other kind of tax.
- (b) The tax is calculated in European currency units on the basis of the age of the vessel and its gross registered tonnage. For instance, on the basis of the coefficients and categories of age and grt set out in Article 13a, paragraph 4, the annual tax on a vessel which is 7 years old and has a grt of 45 000, is calculated as follows:

grt	10 000 x 1.2	=	grt	12 000
"	10 000 x 1.1	=	"	11 000
"	20 000 x 1	=	"	20 000
"	5 000 x 0.9	=	"	4 500

grt	45 000		grt	47 500
"	47 500 x 0.95	=	ECU	45 125

- (c) Cargo or passenger liner vessels and cruise ships pay only half of the tax. Vessels constructed in a Member State pay no tax at all until they are six years old.
- (d) The tax constitutes revenue for the Member State in whose national register the vessel is registered. Paragraph 10 of this Article provides that a Community vessel registered in EUROS may be subject to the favourable system of taxation in his country if he desires.

8. Taxation of seamen

It is obvious why seamen having their domicile or residence in a Member State and working on a vessel registered in EUROS should be exempt from income tax. Firstly, since they work outside their country of domicile or residence, they do not enjoy the state services available to persons working in that country.

Another reason for the adoption of the proposed measure is the specific nature of a seaman's work and the need to attract young people to this declining sector. For reasons of social justice it was deemed advisable to extend this exemption to all Community seamen without distinction within a period of twelve months after the adoption of this regulation.

9. Community aid

As highly competent Community bodies have observed in their criticism of the Commission's information note on financial and fiscal measures (see Doc. SEC(89) 931 final), 'although the Community receives tax revenue from maritime undertakings, it is not inclined to make any substantial contribution to funding appropriate measures'. Taking this basic criterion as his starting point, your rapporteur proposes Community financial aid measures in a new Article 13d.

It should be pointed out that the Commission has agreed to include a new budgetary heading in the draft budget¹ for 1991.

One proposal concerns the subsidization of the seamen pension funds of Community seamen calculated as a percentage of the total insurance contributions paid by seamen and Community vessel owners and the corresponding reduction of the contributions imposed on the seamen and vessel owners by the insurance funds receiving the aid. This form of aid is already being implemented by a traditional shipping country, so far with positive results. Other forms of Community aid proposed are measnize fleets and repatriation costs for seamen. The advantage of the new provision is that it establishes an indispensable legal basis. The amount of the Community's resources which will be earmarked for this aid is, of course, still unknown.

If Article 13d is finally translated into Community law, this will be the first time in the history of the Community - as far as I am aware - in which Community aid has been granted to a productive sector of the European economy in the form of aid to the pension funds of workers in this sector.

¹ Chapter 70: Transport, Heading 705: special measures in the field of maritime transport, Draft Community general budget for 1991.

10. Other measures

The remaining amendments tabled by your rapporteur to the draft regulation on EUROS are chiefly legal and concern improvements to the Commission proposals and the addition of new procedural provisions on the basis of the findings of Professor Y. SCHINAS contained in the Working Document No. 2 (PE 137.281).

III. PROPOSAL FOR A REGULATION ON A COMMON DEFINITION OF A COMMUNITY SHIPOWNER

11. The amendments tabled by your rapporteur seek on the one hand to bring the definitions of 'shipowner' and 'Community shipowner' generally into line with current jurisprudence and case-law and on the other, without diverging from the Commission proposals, to ensure that they do not introduce elements incompatible with the concept of 'Community vessel owner'.

It should be pointed out that a person may be a 'Community shipowner' without necessarily operating vessels registered in EUROS. A Community shipowner may operate vessels which are registered in the national registers of Member States and of third countries.

IV. PROPOSAL FOR A REGULATION APPLYING THE PRINCIPLE OF FREEDOM TO PROVIDE SERVICES TO MARITIME TRANSPORT WITHIN MEMBER STATES

12. One of the amendments proposed by your rapporteur concerns the adoption of an explicit derogation clause in respect of the provisions of the regulation for maritime transport services between the mainland and islands, islands and the mainland of a Member State and between the islands of a Member State (Article 5a).

Maritime links between the mainland and islands are a major problem for a number of Member States. For reasons of national security, Member States need to retain exclusive control of transport from and to islands and between islands within their sovereign territory and exclusive responsibility regarding the organization and operation of this transport.

Moreover, the entry into force of the regulation in respect of maritime transport services has been deferred so as to grant maritime undertakings of the Member States sufficient time to adjust to the new state of affairs which will be created by the liberalization of services in the shipping sector and to enable Member States to take measures to prevent any serious threat to the living standards of the inhabitants of island regions.

Moreover, the Commission is urged to draw up a detailed in-depth study of the consequences of cabotage. This study will form the basis for banning any future version of the regulation.

V. DRAFT COMMISSION RECOMMENDATION ON IMPROVING THE EFFECTIVENESS OF PORT STATE CONTROL WITHIN THE COMMUNITY

13. Communication (COM(89)266 final) from the Commission includes a draft recommendation aimed at stepping up the monitoring of an ensuring compliance with the internationally valid IMO and ILO standards to ensure more effective controls on vessels covered by the memorandum of port state control. The

principal objective of the recommendation is to ensure safety of vessels and crews and protection of the marine environment.

The rapporteur and members of the Committee on Transport and Tourism have proposed a number of improvements to the Commission's proposal. These cover the following areas:

- (a) the nature of controls (purely technical);
- (b) test checks;
- (c) non-discrimination of flags;
- (d) ILO convention 147/1976;
- (e) ILO convention 87 and 98, and
- (f) a Community initiative to extend the application of the memorandum to all OFCD countries in accordance with the LAGAKOS report on shipping safety (A 2-258/88), EP resolution of 17 March 1988, OJ No. C 96, 17.4.1989).

The amendments adopted by the Committee on Transport and Tourism are as follows:

Commission recommendation on improving the effectiveness of port state control in the Community.

Recital No. 1 unchanged

Amendment No.

Recital No. 2

Whereas the principal responsibility for the effective application of these standards as laid down in international instruments rests upon the relevant authorities of the State whose flag a ship is entitled to fly;

Recital No. 2

Whereas the responsibility for the effective application of these standards as laid down in international instruments rests upon the relevant authorities of the State whose flag a ship is entitled to fly;

Recital No. 3 unchanged

Amendment No.

Recital No.3(a)(new)

Whereas port state control is of a purely technical nature and any political or other objectives with port state control should be scrupulously avoided;

Recitals 4,5 and 6 unchanged

Amendment No.

Recital No. 7

Whereas it is necessary to ensure that the target number of inspections on individual foreign merchant ships visiting the ports of signatories to the Memorandum is achieved in order to reduce and prevent substandard shipping and in order to avoid distortions of conditions of competition between ports within the Community;

Recital No. 7

Whereas it is necessary to ensure that the target number of inspections on individual foreign merchant ships visiting the ports of signatories to the Memorandum is achieved in order to reduce and prevent substandard shipping

Recital No. 8 unchanged

Section I unchanged

SECTION II

4. Inspection of ships in accordance with ILO Convention 147/1976 on 'Minimum Standards in Merchant Shipping' concerning labour and employment conditions.
5. Implementation of ILO Conventions No. 87 and 98.
6. The Community shall undertake to have the Memorandum extended to cover the OECD countries, as called for in the LAGAKOS report (A 2-258/88, European Parliament resolution of 17 March 1988, OJ C 96, 17.4.89).

A. Ministers of Transport with whom the rapporteur held exchanges of views

20 January 1990: Mr P. McLoughlin
UK Minister responsible for civil aviation and the merchant
navy
Mr E. Jons
Mr A. Maudar

20 February 1990: Dr W. Knittel
Deputy minister of Transport of the Federal Republic of
Germany
Mr D.C. Hinz
Mr K.E. Gröger

5 March 1990: Mr C. VIZZINI
Italian Minister of the merchant navy

B. List of the participants in and observers at the public hearing on measures in favour of shipping

Shipowners:

Belgium	UNION DES ARMATEURS BELGES Mr Van HERCK
Denmark	DANMARKS REDERIFORENING Mr HANSEN
France	COMITE CENTRAL DES ARMATEURS DE FRANCE Mr RIBIERE
Germany	VERBAND DEUTSCHER REEDER Mr KREEGER
Greece	
Ireland	IRISH CHAMBER OF SHIPPING Mr KENNY
Italy	CONFEDERAZIONE ITALIANA ARMATORI Mr GIORGIO ROSSO
Holland	KONINKLIJKE NEDERLANDSE REDERSVERENIGING Mr C.B.H. STAL
Portugal	CAMARA PORTUGUESA DOS ARMADORES DA MARINHA MERCANTE Mr SALVADO
Spain	ASOCIACION DE NAVIEROS ESPANOLAS Mr Juan YBARRA Y MENDARO
United Kingdom	GENERAL COUNCIL OF BRITISH SHIPPING Mr Alan BOTT
Committee of shipowners associations of the European community	Mr Michele LACALAMITA

Seamen:

Denmark	Dansk Styrmandsforening Mr Peter FUNCH
Germany	Gewerkschaft Offentliche Dienst, Transport und Verkehr Mr Dieter BENZE
Greece	
Spain	Federacion de Trabajadores del Transporte del Estado Espanol - UGT Mr Miguel CORONADO
French	Federation gEnerale des transports et de l'Equipement - CFTD Mr LEGOUAS
Italy	Federazione Italiana Transporti, FIT/CISL Mr GUIDI
Holland	Federatie van Werknemers-organisaties in de Zeevaart Mr A.L. VERHOEF
Portugal	Ederacao dos Sindicatos do Mar Mr Ruben Pacheco de matos ROLO
UK	National Union of Seamen Mr Jack KINAHAN

Shippers:

European Shippers' Council
Mr THOMAS

INTERNATIONAL ORGANIZATIONS:

International labour organization
Mr T. BRAIDA

UNCTAD
Mr G. DEDEYSTER

Port authorities:

Port State Control Committee
Mr E. HUIBERS

Community borders:

Economic and Social Committee
Mr L.M. SMITH
Mr McLAUGHLIN

OBSERVERS

FINMARE

Mr Tullion GAMBERONI

Greek Association of Passenger vessel owners

Mr Andreas POTAMIANOS

Conference of Peripheral Maritime Regions of the EEC

Mr Jean-Didier HACHE

Ver. Ner. Reders in de Kleine Handelsvaart

Mr L.E. STRAUS

Groupe de Promotion des Liaisons Maritimes Inter-regionales
en Europe Atlantique

Mr Eric-Louis MELENEC

OPINION

(Rule 120 of the Rules of Procedure)

of the Committee on Social Affairs, Employment
and the Working Environment

At its meeting of 28 November 1989 the Committee on Social Affairs, Employment and the Working Environment appointed Mr Vassilis Ephremedis draftsman.

At its meetings of 28 November 1989 and 27 June 1990 the committee considered the draft opinion. At the latter meeting the conclusions were unanimously adopted.

The following were present at the time of the vote:

van Velzen, chairman; Barros Moura, Vice-Chairman; Ephremedis, draftsman (for Elmalan); ALavarez de Paz, Buron, Cabezon Alonso, Di Rupo (for Glinne), Hadjigeorgiou, Hughes, Marques Mendes, Megahy, Menrad, Nianias, Nielsen, Oddy (for Peter), Pagaropoulos, Pronk, Torres Couto, van Outrive (for Salisch) and Wilson.

1. INTRODUCTION

In 1986, the Community began to develop a Community maritime transport policy with the adoption of four regulations - Council Regulation (EEC) No. 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries, Council Regulation (EEC) No. 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport, Council Regulation (EEC) No. 4057/86 of 22 December 1986 on unfair pricing practices in maritime transport and Council Regulation (EEC) No. 4058/86 of 22 December 1986 concerning coordinated action to safeguard free access to cargoes in ocean trades².

According to the Council's opinion at that time, these measures were inadequate and there was a need to adopt fiscal and social measures which would reduce the inequalities in resources and operating costs as well as contribute towards the creation of the internal market. With this end in view, the Commission has now submitted a communication entitled 'A future for the Community shipping industry: measures to improve the operating conditions of Community shipping' (COM(89) 266 final³) which contains three proposals for regulations and one recommendation as follows:

- a proposal for a Council Regulation establishing a Community ship register and providing for the flying of the Community flag by sea-going vessels;
- a draft recommendation by the Commission on improving the effectiveness of Port State Control in the Community;
- a proposal for a Council Regulation on a common definition of a Community shipowner;
- a proposal for a Council Regulation applying the principle of freedom to provide services to maritime transport within Member States.

2. BACKGROUND TO THE COMMISSION'S PROPOSALS

The Committee on Social Affairs, Employment and the Working Environment has drafted its opinion on the above legislative proposals on the basis of the following considerations:

- (a) The Member States are to promote improved working conditions and an improved standard of living for workers, so as to make possible their harmonization while the improvement is being maintained (Article 117 of the EEC Treaty),

² OJ No. L 378, 31.12.1986

³ OJ No. L 236, 16.10.1989, p.11

- (b) The Member States have undertaken to bring about the above improvement, particularly in working conditions, to protect the health and safety of workers and set as their objective the harmonization of conditions in this area, while maintaining the improvements made (Article 118A of the EEC Treaty),
- (c) Consequently, health and safety at work and the mental and physical well-being of workers cannot be made conditional on economic factors alone,
- (d) There is a vital need to maintain and increase the number of experienced and well trained Community seamen in employment. This will be achieved by creating guaranteed prospects of steady employment and an improvement in their living standards,
- (e) Strengthening and developing the Community fleet creates good job prospects in related service and industrial sectors,
- (f) Research, the use of specialized technology and the provision of high quality services can contribute towards making the Community fleet more competitive,
- (g) Combining an efficiently managed and safe shipping operation with sound organization should be a matter for deliberation by both sides of the industry,
- (h) The structural disadvantages of Community shipping companies compared with the fleets of third countries cannot be eliminated by approaching the problem from a purely economic point of view, nor should they result in worse operating conditions for Community vessels or working conditions for Community seamen⁴.

⁴ CES 1257/89 TRA/172/p.6

The Committee on Social Affairs, Employment and the Working Environment calls on the Committee on Transport and Tourism, committee responsible to incorporate the following amendments into its report:

1. Proposal for a Council Regulation establishing a Community ship register and providing for the flying of the Community flag by sea-going vessels¹

First recital unchanged

Amendment No. 1

Second recital to read:

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 and truly competitive fleet depends on the availability of a maritime infrastructure within the Community including a reserve of nationals of Member States to serve as seafarers, on the development of maritime transport research, making optimum use of technology and increasing productivity, a competitive cost level, and on an expansion in Community cargoes;

¹OJ No. C 263, 16.10.1989, P.11

Amendment No. 2

Third recital to read:

Whereas the fleet flying Member States' flags has suffered a 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;

Whereas the fleet flying Member States' flags has suffered a 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; and a reduction in the invisible earnings of the Member States;

Fourth recital unchanged

Amendment No. 3

Fifth recital to read:

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 ships serving Community needs, which comply with the standards of Community law and the international maritime conventions, and whose crew includes as a minimum a specified number of trained seafarers from Member States;

Amendment No. 4

Sixth recital to read:

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

Whereas the need to cover costs must not result in any reduction in gross wages or a deterioration in working conditions or seafarers' rights and acquired benefits.

Amendment No. 5

Add a new recital 6a to read:

Whereas the reduction in the cost level should not adversely affect the working conditions, health etc., of persons employed on vessels;

Amendment No. 6

After the sixth recital, add a new recital 6b:

Whereas it is feasible to reduce costs in this sector by means of:

- Loans and other incentives to build modern ships (to replace old vessels).
- Making more funds available for research.
- Increasing productivity through improving crew training and working conditions.
- Taking appropriate fiscal measures.

Amendment No. 7

Seventh recital to read:

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

Whereas the Community fleet may be made more competitive by economic measures (incentives) taken by Member States in respect of shipping companies and their employees such as exemption from income tax for seamen employed on vessels registered in Euros;

Eighth and ninth recitals unchanged

Amendment No. 8

Tenth recital

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;

Delete the second part ('whereas, however, this right should also be given ...')

Eleventh recital unchanged

Amendment No. 9

Twelfth recital to read:

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 the Community register should depend on compliance with the health and safety principles and rules in respect of vessels, personnel and seamen established at Community level and laid down by the international conventions in this respect;

Thirteenth recital unchanged

Amendment No. 10

Fourteenth recital to read:

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

Whereas seafarers from non-Community countries on vessels registered in this register should be employed on conditions in conformity with internationally agreed standards and the provisions of the law and collective labour agreements of the Member State whose flag the vessel flies.

Amendment No. 11

Fifteenth recital to read:

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.

Whereas all seafarers on vessels registered in this register should at least benefit from social protection and social security; whereas the Member States shall be required to safeguard the insurance rights of seafarers from third countries by means of agreements between states and arrangements for the assessment, collection and payment of insurance contributions to the social security authorities responsible for seafarers from third countries working on Community vessels.

Remaining recitals unchanged

Articles 1 and 2 unchanged

Amendment No. 12

Article 3(1)(c) to read:

(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;

~~Delete~~ '... or shipping companies established outside the Community and controlled by nationals of a Member State,'

Articles 4 and 5 unchanged

Amendment No. 13

Article 6 (title)

Safety

Article 6 (title) to read:

Safety of the vessel - health and safety of the crew.

Amendment No. 14

Article 6

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

Article 6 to read:

Throughout the period of registration the vessel must comply with all the conditions relating to workers' health and safety already adopted at Community level and must be provided with all vessel safety certificates required by the Member State concerned.

Amendment No. 15

Article 7

On vessels registered in EUROS all officers and at least half of the rest of the crew shall be nationals of a Member State. Trainees do not count towards meeting the requirements above.

Article 7 to read:

On vessels registered in EUROS all officers and at least half of the rest of the crew shall be nationals of a Member State. Where Community seafarers are available for recruitment, all of the crew shall be nationals of Member States.

Amendment No. 16

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 an arrangement on collective wages agreed upon with organizations as referred to in Article 9.

Article 8

1. Contracts, conditions of work and terms of social protection, in particular in respect of the wages, working hours and social security of seafarers employed on vessels registered in EUROS, shall be in accordance with the provisions of the law and the collective labour agreements applying in the Member State whose flag the vessel flies as well as with the provisions of ILO Recommendation 109 on Wages, Hours of Work and Manning where this lays down more favourable arrangements for seafarers.

Article 9 (1) and (2) unchanged

Amendment No. 17

Article 9 (Collective wage agreements paragraph 3

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 State concerned shall be competent to hear and determine disputes arising out of such agreements or from individual labour contracts concluded within the framework of collective wage agreements.

Amendment No. 18

Article 9

Add the following new paragraph 3a:

3a. The agreements referred to in the preceding paragraphs may not set lower wages than those applying to Community seafarers in the same occupational category.

Amendment No. 19

Article 10

Social security

Without prejudice to Article 13(2)(c) of Council Regulation (EEC) No. 1408/71¹ and unless otherwise mutually agreed at the level of government 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 10 to read:

1. The social security arrangements specified in Regulation (EEC) No. 1408/71¹ in particular Article 13(2)(c), shall be applicable to seafarers on board vessels registered in Euros.

2. Non-Community seafarers working on board Community vessels shall be guaranteed their social security rights under the arrangements of the seafarer's country of residence and the Member States shall be required to conclude agreements at state level with the countries of origin of seafarers from third countries and to enact measures laying down the procedures for the assessment, collection and transfer of social security contributions to the social security organizations of those seafarers.

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.

¹ OJ No. L 149, 5.7.1971, p.2

Articles 11 and 12 unchanged

Amendment No. 20

Article 13

Add a new second paragraph:

Before this regulation enters into force, the Commission shall submit to the Council a programme for the basic and further training of seafarers.

Amendment No. 21

Add a new Article 13a to read:

The Member States and the Community as a whole shall undertake to take measures to enhance the services and amenities provided on vessels and, in general terms, the facilities required to improve the operation of the shipping enterprise. Tax relief and other financial aid shall also be granted to encourage shipowners to modernize and renew their fleet, operate their vessels under a Member State's flag and employ Community seafarers.

The Member States shall exempt seamen from income tax and from tax in respect of their earnings for work performed as members of a crew of a vessel registered in Euros.

Amendment No. 22

Add a new Article 13b to read:

The Community shall grant aid to the insurance funds of seamen of Member States in proportion to the number of seamen registered in each fund in application of the special Community economic aid programme in the field of maritime transport to make vessels registered in Euros more competitive and to attract young people to the profession of seamen;

Articles 14 - 19 unchanged

2. Draft recommendation by the Commission on improving the effectiveness of Port State Control in the Community ¹
-

Recitals: all unchanged

- I. With regard to ratification of the International Conventions covered by the Memorandum of Understanding: unchanged
- II. With regard to the implementation of the International Conventions covered by the Memorandum of Understanding

Paragraph 1, unchanged

Amendment No. 23

Paragraph 2 to read:

2. The inspection procedures laid down in the Manual for Surveyors adopted by the Port State Control Committee are strictly applied.

2. The inspection procedures laid down in the Manual for Surveyors adopted by the Port State Control Committee are strictly applied.

Authorized representatives of the seafarers' unions shall also be able to carry out inspections in accordance with these procedures.

Paragraph 3, unchanged

¹OJ No. C 263, 16.10.1989, p.15

3. Proposal for a regulation on a common definition of a Community shipowner¹

Recitals unchanged

Articles 1 - 3 unchanged

Amendment No. 24

Article 3a (new)

After Article 3 add a new Article 3a to read:

3. In any case, the links between the vessel operated and the Member State in which it is registered, i.e. the flag, the establishment of the company on Community territory and the manning of the vessel by Community seafarers, shall also constitute criteria for definition as a Community shipowner.

Amendment No. 25

Article 4(4)

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

Article 4(4)

Delete

Article 5 unchanged

¹OJ No. C 263, 16.10.1989, p.16

4. Proposal for a regulation applying the principle of freedom to provide services to maritime transport within Member States¹

First to seventh recitals unchanged

Amendment No. 26

After the seventh recital, add an eighth recital

Whereas, notwithstanding the foregoing, it is possible for a Member State to wish to opt out of the provisions of this regulation and to retain the prerogative of using national vessels for its coastal shipping where there are particular reasons for doing so, such as the development of a Member State's island regions, contributing to meeting its transport requirements, the employment of a large number of its seafarers and for reasons connected with national defence.

Article 1,(1)(2) and (3) unchanged

¹OJ No. C 263, 16.10.1989, p. 17

Amendment No. 27

Article 1(4)

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

Article 1(4) to read:

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

Article 2 unchanged

Amendment No. 28

After Article 2 add the following Article 2a:

Article 2a

Member States shall be entitled to retain the national prerogative to run passenger services in accordance with existing national legislation where this is justified on social, employment, regional development or national defence grounds.

Amendment No. 29

Article 3

Articles 55 to 58 and 62 of the Treaty shall apply to the matters covered by this Regulation.

Articles 55 to 58, 62 and 75 of the Treaty shall apply to the matters covered by this Regulation.

Articles 4 - 7 unchanged