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REPORT FROM THE COMMISSION TO THE COUNCIL

**Implementation of Regulation 3577/92
applying the principle of freedom to
provide services to maritime transport
within Member States - 1993-1994**

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Report of the Commission to the Council

Implementation of Regulation 3577/92 applying the principle of freedom to provide services to maritime transport within Member States - 1993-1994

Introduction

1. This is the first report on the implementation of Regulation (EEC) 3577/92, adopted by the Council on 7 December 1992. The Regulation entered into force on 1 January 1993. The report consists of three parts:
 - I. a description of the implementation of the Regulation, in accordance with Article 10 of the Regulation. This article also provides for new proposals, if deemed appropriate. The Commission has interpreted the obligation stemming from Article 10 also to include an analysis of the *economic effects* of the liberalisation;
 - II. an analysis of the effects of admission to the market of ships that do not comply with all the conditions for admittance to cabotage in the flag State. The analysis includes an examination of the market effects as well as the *possible distortion of competition* among Community flag ships in cabotage trades. This part meets a request by the Council, made during adoption of the Regulation and relating to its Article 1(2). The temporary derogation of Article 1(2) only applies to the second register ships of Denmark and Portugal. The Commission was also asked to present, if necessary, proposals before the end of 1994;
 - III. an examination of the cabotage fleets of the EFTA countries, considering crew costs and participation in EU coastal traffic during the period 1993-1994, when Sweden and Finland were still members of EFTA. Regulation 3577/92 was not included in the 'interim package', updating the EEA agreement as adopted by the EEA Joint Committee on 21 March 1994. On that occasion, both the EU and EFTA made a statement on maritime cabotage, the EFTA side regretting that the Regulation had not been integrated in the Agreement and the EU side promising to consider integration at a later stage. For that reason, the Commission, when preparing its first report on the implementation of the Regulation, was asked to take into account the possible implications of an *extension of the Regulation to the EEA*.
2. The maritime cabotage Regulation was finalised only after years of discussion and it represents a delicate political compromise between the positions of Northern and Southern Member States. Basically, domestic shipping has been liberalised but there are still many derogations. The text contains a calendar for further liberalisation by the Southern Member States by sector or type of service up to the year 2004. Only one of these sectors, that of cruise services has since been liberalised, from 1 January 1995. Spain was granted safeguard measures for one year, until 17 February 1994.

This report is presented for information to the European Parliament, the Economic and Social Committee and the Committee of the Regions.

PART I: developments in the cabotage sector in the EU (1993-1994)

Legislative developments

3. The Commission requested Member States to provide it with information on the application of the Regulation, including any legislation adopted. Replies were received from:

- Belgium: No legislation adopted, since cabotage is free.
- Denmark: No special reference in law to Regulation 3577/92. The only exception to the freedom of cabotage, i.e. trade with vessels below 500 GT, was abolished in 1994.
- France: No legislation adopted, but liberalised cargoes may be carried without authorisation.
- Germany: See law of 15 July 1994.
- Greece: See Presidential Decree 215/94.
- Ireland: No legislation adopted, since cabotage is free.
- Italy: No legislation adopted, but the government issued a circular concerning Regulation 3577/92 to the maritime authorities.
- Portugal: See Decree-Law 368/93.
- Spain: See Royal Decree 897/93 and Order of 28 July 1993.
- UK: No legislation adopted, since cabotage is free.

No replies were received from Luxembourg and The Netherlands, but it is understood that cabotage is of little relevance and historically free in the latter Member State.

Member States legislation concerning cabotage should have been adjusted in the line of the judgements of the Court of Justice (1973) ECR 101 Commission v. Italy and (1974) ECR 359 Commission v. French Republic to ensure that no national legislation conflicting with the Regulation remains in force, while at the same time ensuring that the Community law nature of the Regulation is not put into question by unduly repeating the same. The Commission services are continuing examination of conformity of Member States' laws with the Regulation.

The Spanish request for safeguard measures under Article 5 of the Regulation

4. As from 1 January 1993, the Spanish authorities adopted unilateral safeguard measures under Article 5 of Regulation 3577/92 and formally requested the Commission to grant it a 12 month exemption from the application of the Regulation pursuant to the same Article. The Commission granted Spain safeguard measures by two consecutive decisions. By its first decision (93/125/EEC) dated 17 February 1993, the Commission granted an exclusion of the Spanish mainland area from the scope of the Regulation, with the exception of feeder services. On the basis of a study carried out by independent consultants on the impact on the Spanish shipping sector of mainland cabotage liberalisation, a second Commission decision (93/396/EEC) of 13 July 1993 granted Spain an extension by an additional period of six months for safeguard measures for transport services of three types of commodity, again with the exception of feeder services. Each time, the exceptional nature of the derogation was confirmed by the inclusion of an Article whereby in the event that no Spanish vessel was available, at a given moment, the Spanish authorities had to allow other Member States' vessels to offer such services.

Economic effects

5. The total volume of cabotage trades in the (12) EU countries in 1993 was almost 224 million tonnes. Half of this consisted of island trade, i.e. trade between the mainland and islands or between islands. The other half was trade between mainland ports. The oil sector represented 63% of the mainland trade. *Annex I* contains a detailed table of cabotage developments from 1984-1993.

Total volume of EU cabotage, 1993 (million tonnes)

Total North European Trades	100,6
Liberalised South European trades	22,4
Protected South European Trades	100,8
Total	223,8

Source: MERC (Maritime Economic Research Centre)

6. In general, the economic effects of liberalisation have been modest during the periods covered by this report. This can be partly attributed to the relatively small portion of cargo which became legally available in the Southern Member States. This concerned *non-strategic cargo* in the *mainland* trade and only if it was carried by vessels *above 650 GT*. This amounted to only 18% of their total cabotage trade, equal to 22.4 million tonnes.
7. However, although 22.4 million tonnes was liberalised, only 1.3 million tonnes or 6% was actually carried by non-national flag vessels. This volume represents *one percent* of the total maritime cabotage of the Southern Member States.
8. Access to the remaining 100.8 million tonnes, including all cargoes in island trade, is still reserved for the national flag vessels of the Southern Member States. Regulation 3577/92 exempts temporarily a number of mainland cabotage trades of the latter Member States¹ and all their island trades².

EU cabotage, still protected, 1993 (million tonnes) *(Protected South European Trades)*

< 650 Tonnes	4,4
Strategic mainland	33
Strategic islands	28
Bulk cargo (islands)	14,9
Gen. cargo (islands)	20,5
Total protected trades	100,8

Source: MERC

¹ Cruise services to be liberalised by 1.1.1995; strategic goods by 1.1.1997; services by ships <650 GT by 1.1.1998; regular passenger and ferry services by 1.1.1999.

² F, I, P and SP: all services to be liberalised by 1.1.1999. GR: regular passenger and ferry services and services by ships <650 GT by 1.1.2004; all other services by 1.1.1999.

Effects by Member State

9. The volume of liberalised cargoes during the period of review, based on 1993 figures, was the following (in million tonnes):

Liberalised cargoes, including captive cargo, by Member State in 1993.

country	dry bulk	gen. cargo	chemicals/gases	total
France	0,4	--	0,2	0,6
Greece	--	--	--	--
Italy	1,9	5,2	0,5 ^{a)}	7,6
Portugal	0,1	--	0,1	0,2
Spain	3,7	4,4	0,7	8,8 ^{b)}
sub total	6,1	9,6	1,5	17,2
captive (own account) ^{c)}	5,2	--	--	5,2
total	11,3	9,6	1,5	22,4

a) estimated

b) until February 1994 (end of safeguard measures): 0.5 - 0.8 m.

c) Captive (own account) means cargoes able to be shipped by industrialists which have their own fleet. Those which may be offered on the open market (F: 1 m., GR: 0.2 m., I: 3 m., SP: 1 m.).

10. Another 4.4 million tonnes of non-strategic cargo was carried by ships of less than 650 GT. Obviously this cargo was shipped in such small volumes that larger ships were not needed; if they had been carried by ships larger than 650 GT, these cargoes would have been freely accessible as well.

11. The participation of foreign flag vessels was marginal:

France: the volume of 0.6 million tonnes bulk cargo was apparently not of interest to foreign flag carriers (perhaps being too small or too special);

Greece: since virtually all mainland trade consists of strategic cargo, captive industrial cargo or cargo carried by ships smaller than 650 GT, no foreign flag ships were involved;

Italy: operators in the market must have been largely unaware of the changes; 11 million tonnes of cargo were liberalised, yet foreign (EU and non-EU) flag ships carried only 0.2 million tonnes in 1993. The fleet owned by Italian industrial enterprises has a capacity of 3 million tonnes, which is captive cargo for the national flag;

Portugal: the volume of liberalised cargo is negligible;

Spain: since the non-strategic cargoes, except cargo carried by vessels under 650 GT, became accessible only as from 17 February 1994³, it has not yet been possible to assess the impact of this liberalisation.

Foreign flags in liberalised trade

12. Foreign flag involvement was relatively high (12%) in the liberalised part of the *Spanish* cabotage market (i.a. iron ore). This may have been caused by a lack of sufficient national flag tonnage, although the foreign ships used were often Spanish controlled. This situation, however, already existed before the liberalisation of mainland trade, when foreign flag ships were being operated under waivers.
13. Foreign flag involvement in the transport of *chemicals* and *gas* has been particularly high (45%) and not only in Spain. The same applies as in point 11: foreign ships were already being used to carry these cargoes under waivers.
14. There are two other reasons for the modest effect of the present liberalisation:
 - most of the liberalised *bulk* cargoes which are transported between mainland ports in the South of Europe are of little interest to foreign shipowners. Either freight rates are too low or there is no return cargo available;
 - there is still insufficient knowledge among shipowners and shippers concerning the recent liberalisation; even if they knew more about it, shippers tend to stay with their traditional national carriers as long as foreigners do not offer regular services.

Foreign flags in non-liberalised trade

15. Between 6 and 6.5 million tonnes of non-liberalised cabotage cargoes were carried by foreign flag ships under waivers. This is about 6% of the 101.5 million tonnes which are still reserved for the national flag. Foreign flags carrying reserved cargoes were only identified in France (0.3 - 0.5 m. tonnes), Spain (1 m. tonnes) and Portugal (4.9 m. tonnes). For Portugal the ships registered in the Madeira ship register have been included as "foreign ships", since they need waivers to operate in Portuguese cabotage.

The Commission is examining whether the derogations accorded by Article 6 (the non liberalised trades) remain justified when Member States' provisions on waivers for access to those trades do not include a preference system in favour of EU flags by which waivers would only be granted to non EU flag vessels if no EU flag vessel were available.

Foreign flags in North European cabotage

16. Cabotage trade in the Northern Member States is open to foreign flags with the exception of Germany, where cabotage trade is reserved to EU flag vessels. Although, in Denmark and the UK, the national flag is predominant in the ferry trade and in the

³ Commission Decisions 93/125/EEC of 17.2.1993 and 93/396/EEC of 13.6.1993 concerning the application of safeguard measures pursuant to Article 5 of Regulation 3577/92.

transport of general cargo, Danish and British ships carry only 20% of bulk cargoes. UK flag ships, however, carry virtually all British North Sea oil. In Germany, national flag ships carried 58% of the cabotage trade in 1993 against 75% in the previous year.

Cabotage fleets

17. *Annex II* contains data relating to the cabotage or "coastal" fleets of the Member States per 1 January 1994. Ships registered in DIS and MAR are not included; they are referred to in Part II of this Report.
18. It has been difficult to identify cabotage fleets in the Northern Member States, since the vessels concerned may easily shift from international trade to cabotage trade. Therefore, the "coastal" fleet has been the yardstick for this Report. This is generally understood to be the fleet of vessels below 6,000 GT (10,000 DWT), although larger ferry ships may also be considered for this purpose. It is estimated that about 80% of all genuine cabotage voyages, made by the vessels concerned, took place in the trades of the Northern Member States, notably those of the UK and to a lesser extent, Germany.
19. In the Southern Member States, dedicated cabotage fleets can be easily identified, for instance on the basis of a "Limited Certificate of Seaworthiness".
20. It should be noted that, in general, the cabotage fleet under Community flag decreased in size in the period between 1992 and 1994. The reduction ranged from being not significant as in Greece and Italy to 30% in Spain. Both in the North (notably in Germany, the Netherlands and the UK) and in the South (in particular in Spain), the decline is attributed to general market conditions and the high cost of operation and therefore flagging-out to open registers such as Cyprus and Malta, Antigua, the Bahamas and Vanuatu. In France, an increasing number of ships was registered in the Kerguelen register.
21. Since 1 July 1993, Spanish ships have been allowed to register in the Canary Islands; however, they are not then permitted to operate in those Spanish cabotage trades where restrictions are still applied⁴. Between 1992 and 1993, the Spanish cabotage fleet shrank from 124 vessels to 85 vessels. The number of seafarers decreased from 3,000 to 2,100, a 30% reduction. It is assumed that the prospect of increased liberalisation of the Spanish market contributed to the decisions taken by some Spanish owners. Similar moves by shipowners in the other Southern Member States were not reported.

Conclusion

22. In general, it might be expected that further cabotage liberalisation in the coming years will lead to increased efficiency in this sector, which will result in an improvement in the competitiveness of maritime cabotage operators by comparison with operators of other modes of transport. It is understood that Greek cabotage owners, for example, are preparing themselves for full liberalisation. Regulation 3577/92 will put national

⁴ Cruise services have been liberalised for all operators with effect from 1.1.95, although the liberalisation for Canary Islands registered vessels took place earlier (1.1.94).

cabotage trades on an equal footing with intra-European short sea shipping with the exception of the flag requirement. Since the latter mode of transport is increasingly considered an alternative, especially for long haul road transport, a shift of part of the cargo to maritime cabotage is not unlikely. However, this postulates not only a benefit to the shipper, but also the availability of sufficient ship's capacity at the right time. This will require a greater commitment by shipping companies to gain the confidence of shippers. At present, the cabotage sector in some Member States suffers from a poor image while inland infrastructure projects (pipelines, new roads) enhance the attraction of land-based trade flows.

PART II: DIS⁵ and MAR⁶ vessels and their participation in EU cabotage trades

The DIS and MAR fleets

23. *Annex III* describes the composition of the DIS and MAR fleets. The number of ships registered in DIS remained more or less the same during the years 1993 and 1994. Out of the total number of 478 on 1 July 1994, 223 vessels could *potentially* participate in cabotage outside Denmark. The fleet is relatively young: 84% is less than 15 years old. There are no restrictions on the nationality of seafarers, except for the master. However, in practice most of the seafarers on board Danish coastal vessels are Danish. To the extent that Filipinos and Indians are employed, the wages under the collective agreements concerned are comparable with the ITF (International Transport Federation) 'basic crew rate' (as opposed to the ITF 'Far East rate' which is lower). Seafarers on board DIS vessels are exempt from payment of income tax.
24. The MAR fleet is relatively small, 35 ships in 1994. The tanker section alone represents half of the vessels and by far the greater part of the deadweight tonnage. About 40% of the fleet is foreign-owned. Nine vessels are owned by Spanish companies. The master and half the crew must be Portuguese or other Community nationals but dispensation is possible. Seafarers are exempt from income tax.
25. DIS and MAR vessels are not allowed to participate in their national cabotage trades although waivers may be granted. Since Regulation 3577/92 only allows freedom to provide cabotage services to ships which are permitted to operate in their own cabotage, DIS and MAR ships needed a derogation in order to have access to cabotage in other Member States. This derogation has been granted until 31 December 1996 (Article 1(2) of the Regulation). The Council requested the Commission to start analysing the participation and *possible distortion of competition* caused by DIS and MAR ships in the cabotage trades of Member States and to devote part of its first Report to its findings.

Participation of DIS and MAR vessels

26. Although 223 DIS ships could have been *potentially* active in foreign cabotage, it is estimated that in reality a maximum of 50 ships were employed in EU cabotage outside Denmark. Most of them participated in the British or German domestic trades. Some vessels were used in the French, Portuguese and Spanish cabotage, primarily in cases where no national tonnage was available. This mainly concerned chemical and gas tankers. Since the participation of DIS ships in these trades increased to some extent in 1994, it might be assumed that the liberalisation has had some effect. However, the turn-over of the DIS fleet earned from cabotage activities is estimated at 1-2% of the total turnover and only one quarter of this percentage stems from activities in the South of Europe.

⁵ DIS: Danish International Ship register

⁶ MAR: Madeira International Ship register.

27. MAR vessels participate mainly in Portuguese cabotage through waivers; a few voyages were made in British coastal trades. These concern oil, gas and chemical cargoes; both in 1992 and in 1993, virtually all these cargoes were carried in Portugal by MAR ships only. It is not yet known what the situation was in 1994.

Cost comparison between DIS/MAR and national registers of EU and EEA partners

28. *Annex IV* contains the ranking of seafarers' wage costs for 1993, split into the wages of Chief Officers and Able Seamen. *Annex V* gives details of comparative *manning costs* for three types of vessels. In calculating these costs, support measures, if any, have been taken into account. For the purposes of this report, the German ISR⁷ register has been considered to reflect an average cost register, on the basis of various sources.

29. The derogation granted to DIS and MAR vessels until 31 December 1996 has given rise to some concern since such vessels are thought to have cost advantages over the vessels of other national registers of the EU.

30. It becomes clear from the tables in *Annex V* that much depends on how the manning rules are applied or in practice whether the ship is manned with Community nationals or partially or wholly with foreigners. Information on manning costs was received from the International Shipping Federation for several cabotage vessels registered in DIS and MAR and in the other registers. For DIS vessels, a "minimum" and a "realistic" situation has been assumed, reflecting, respectively, the minimum manning costs achievable under DIS rules and the situation which, reportedly, applies in reality in the case of coastal vessels. In the latter case, a DIS ship of 3,300 GT will be manned by 14 persons, i.e. 10 Danes and 4 Filipino ratings. The following table, which is an extract from *Annex V* (2), demonstrates this:

Estimated crew costs for a 3,300 GT vessel registered in ISR, DIS and NIS⁸ (in 1,000 USD and Index ISR = 100)

Register	Crew (number)		Annual costs	
	Officers	Ratings	\$1000	Index
German - ISR	German (3), Filipino (2)	German (1), Filipino (4)	709	100
DIS - minimum	Danish (1), Filipino (5)	Filipino (8)	334	40
DIS - realistic	Danish (6)	Danish (4), Filipino (4)	876	106
NIS	Norwegian (1), Filipino (5)	Filipino (8)	356	43

Source: Tecnecon (Economic and Transport Consultants)

⁷ ISR: German International Ship register.

⁸ NIS: Norwegian International Ship register.

31. In general, crew costs for coastal vessels are a relatively high proportion of overall costs in comparison with the situation for ocean-going vessels. A case in point would be that a Dutch coastal ship benefits from lower costs than the Danish ship in the "realistic" situation because it has a lower crew complement, which has also a bearing on the level of costs for holidays, sick leave and training time. Filipino seafarers on Dutch coastal vessels are paid in accordance with Dutch collective labour agreements; they may not be employed at home country wages.

Conclusion

32. Operating costs under the various registers differ considerably. This may give rise to particularly fierce competition where Member States with relatively expensive registers open their cabotage trades to competition for the first time. Whereas the MAR fleet, which operates mainly in Portuguese cabotage will not have a significant impact on the Community market, DIS vessels *may* have a considerable advantage compared with other registers. This depends on whether the number of non-nationals approaches the maximum allowable percentage. Since this remains a possibility and the time for assessment has so far been short and too few trades have been opened in the Southern Member States, the Commission is not in a position to propose an amendment to Regulation 3577/92 with a view to allowing DIS (and MAR) vessels permanent access to EU cabotage.

33. The above conclusion should be accompanied, however, by three notes:

- DIS vessels in the realistic situation could already be highly competitive and attractive to shippers for reasons other than potentially low crew cost, including technological advantages, efficiency, reliability and punctuality;
- there are other registers in the EU - second registers *and even* first registers - which can be highly competitive in the cabotage trades as can be seen in the Annexes. Closure of these trades to DIS and MAR ships as from 1 January 1997 would not rule out fierce price competition, although DIS ships opting for the "minimum" cost situation could affect such competition most;
- the overriding question, therefore, remains whether ships which are not allowed in their own cabotage should have permanent access to that of other Member States; if this question is answered in the negative, modification of the national legislation on such registers might be one way to give DIS and MAR vessels permanent access to the cabotage trades of the other Member States.

PART III: implications of extension of Regulation 3577/92 to EFTA countries

Background

34. On 21 March 1994, the EEA Joint Committee adopted a decision to integrate all relevant new EU legislation, adopted between the conclusion of the EEA negotiations and the entry into force of the EEA Agreement, into the Agreement. This did not include Regulation 3577/92. The European Union made a statement, agreeing that:

"when preparing its first report on the implementation of the Regulation the Commission shall also take into account the possible implications of an extension of the Regulation to the EEA. At that time the EEA Joint Committee shall promptly examine the question of the inclusion of the Regulation in the EEA Agreement".

35. During the accession negotiations with Norway, it was agreed that NIS vessels (according to the law, not allowed in Norwegian cabotage trades) would not benefit from the derogation provided for in Article 1(2) of Regulation 3577/92. Norway undertook not to modify its NIS legislation before 1 January 1997.

36. The enlargement of the European Union on 1 January 1995 means that the Regulation now applies also to Austria, Finland and Sweden. When preparing its report, the Commission collected information on the legislation of the then four main maritime EEA partners; see *Annex VI*. It appeared that both Finland and Sweden have restricted cabotage. Finland, however, adopted legislation to open its coastal trade to other EU flag vessels (Law 1362/94). Sweden had already concluded bilateral agreements with six EU Member States, granting reciprocal access to first and second register ships. It is now in the process of legally abolishing restrictions as far as all EU flag vessels are concerned.

37. A study relating to the fleets of the former and present EFTA countries included data on the *participation of the fleets* of Finland and Sweden in EU cabotage trades and the most important findings are laid down in this Part and in *Annex VII*. The participation of NIS vessels is shown in *Annex VIII*.

Crew costs

38. Data on the crew costs of Finnish, Swedish, Icelandic and Norwegian vessels can be found in *Annexes IV and V*, already referred to in Part II. *Annexes IV and V* demonstrate that Finnish and Icelandic ships should be ranked as medium to high cost EU flag vessels, whereas Swedish flag ships appear to compete at least on equal terms with relatively low cost second registers in other EU States, such as the German I.S.R. and the DIS (in the "realistic" situation). The Swedish flag and the Finnish second register allow the reimbursement of taxes and social security contributions, which enable shipowners to make a 25-30% saving on crew costs.

39. The first Norwegian register - NOR - seems to be more expensive than other EEA flags and almost all EU registers. On the contrary, crew costs of vessels registered in the *Norwegian International Ship register (NIS)* are lower than those of all first and

second registers in Europe apart from DIS in the "minimum" situation. These costs are 30-40% less than those for ships registered in relatively low cost EU registers. They are only 20% of the cost of the most expensive EU flags.

Participation of Finnish, Swedish and EFTA vessels in EU cabotage

40. Annexes VII and VIII contain information of the *estimated* participation of Finnish, Swedish and EFTA vessels in EU cabotage trades during the period November 1993 - November 1994. An analysis has been made of Swedish, Finnish and NOR vessels on the one hand and NIS ships on the other; Swedish and Finnish ships now have access to cabotage in all Member States and NOR ships will obtain it if Regulation 3577/92 is extended to the EFTA. For NIS ships, as long as Norwegian legislation is not amended, this would not be the case. Participation of NIS vessels was analysed only in the Member States with an open coast line. It is possible, however, that some ships were chartered for voyages in the Southern Member States.
41. The data shown in the annexes result from an analysis of vessel movements, the elimination of ships obviously not suitable for cabotage and interviews with owners of the remaining vessels, which are mainly small cargo ships and oil- and chemical tankers. The figures indicate the total gross tonnage of the ships participating in these trades, but they do not show the *shares* of the Nordic vessels in the total carryings. However, the following table prepared by the UK Department of Transport shows shares in the UK market:

Market shares of EFTA flag vessels in UK coastal trades in 1993.

Flag	Volume of dry cargo goods lifted (mt)	% share of UK Trade	Volume of liquid goods lifted (mt)	% share of UK trade
NIS	0.16	0.9	2.95	7.0
Sweden	*	*	1.77	4.2
Norway	*	*	0.56	1.2
Finland	*	*	0.54	1.2
Total	0.16	0.9	5.82	13.6

* insignificant

42. Annexes VII and VIII show that *Norwegian* (NIS) and *Swedish* flag oil and chemical tankers were prevalent in EU coastal trades, in particular in those of the UK, which is of course an important oil products market. These ships were also active in Denmark, Germany and the Netherlands. It is not likely that all vessel movements were related to voyages which should be considered genuine cabotage.

43. The above table on market shares of total carryings in the UK coastal trades shows that EFTA vessels as a group had an overall market share of almost 14% of the liquid bulk trade, with a share of 7% for NIS ships. NIS ships had a share of 5.2% of all UK carryings, which seems relatively modest. The explanation is that UK coastal trade is open to *all* flags and British ships, ships of other Northern Member States, EFTA (including NIS) ships and those under other non-EU flags, *inter alia* flags of convenience, were able to compete freely.

Potential competition of NIS ships

44. Although the NIS share of the market does not seem to be high in the Northern Member States, the number of ships which could be seen as *potentially* suitable for cabotage in all EU States is estimated to be between 200 and 420 vessels⁹. Around 250 are ships over 10.000 DWT (6000 GT) but below 30.000 DWT. Some Spanish ships of that size participate in Spanish cabotage, although usually such larger vessels operate in the international market. As a rule, many ships, especially vessels purposely built for a particular trade, are not easily transferable to another trade. Moreover, according to the Norwegian authorities, most, if not all, small NIS and NOR vessels operate exclusively in Norwegian import/export trades. Yet, in spite of this, the potential of so many ships, operated under extremely low cost conditions, should not be underestimated. The smaller multi-purpose type NIS vessels may try to find additional markets, if present restrictions were lifted.

Conclusion

45. The EEA Agreement provides for the creation and maintenance of a homogeneous European Economic Area covering in particular all four freedoms. To achieve this there must be a continuous and comprehensive extension of relevant Community *acquis* to the EEA. The question of how Regulation 3577/92 can form part of the relevant Community *acquis* is connected to the solution of the following issues.

Provided that NIS vessels continue to be excluded from free participation in EC cabotage as they would be on the basis of Article 1(1) of the Regulation, extension of the Regulation to the EFTA/EEA States is unlikely to cause significant changes in the present trade patterns for EC cabotage. It should be made clear that the derogation foreseen in Article 1(2) of the Regulation should not be made available to NIS vessels since it was only intended for the EU Member States at the date of adoption of the Regulation. Moreover, Norway should make the commitment not to change its NIS legislation before 1 January 1997. By that time the Commission will have had the opportunity to analyse, in the framework of its second implementation report, the effects of liberalisation of maritime cabotage on a broader factual basis. Both points had already been accepted by Norway in the accession negotiations. Should Norway consider to allow NIS vessels access to their own domestic market after 1 January 1997, the situation may need to be reconsidered in the light of Norwegian manning requirements and practices prevailing at that time.

⁹ Ro-ro and passenger ferries have not been taken into account since they are often dedicated to particular service routes.

ANNEX I

OVERVIEW OF CABOTAGE DEVELOPMENTS BY EU MEMBER STATE (MLN. TONNES)

Category	DRY BULK		LIQUID BULK		GEN CARGO		TOTAL		TOTAL
	mainl.	islands	mainl.	islands	mainl.	islands	mainl.	islands	
Country									
Belgium									
1984	NA	-	NA	-	NA	-	NA	-	NA
1992	NA	-	NA	-	NA	-	NA	-	NA
1993	NA	-	0.05	-	-	-	0.05	-	0.05
Denmark									
1987*	3.9	3.0	0.5	2.6	-	8.6	4.4	14.2	18.6
1992*	5.25	2.05	0.55	2.65	-	8.2	5.8	12.9	18.7
1993*	4.25	1.9	0.45	2.5	-	9.5	4.7	13.9	18.6
France									
1984	2.4	0.3	7.2	0.3	-	1.2	9.6	1.8	11.4
1992	1.8	0.3	7.2	0.4	-	0.9	9.0	1.6	10.6
1993*	1.6	0.2	6.5	0.3	-	0.9	8.1	1.4	9.5
W. Germ. unified									
1987	0.5	-	1.5	-	-	-	2.0	-	2.0
1992	1.45	-	7.35	0.1	0.5	-	8.85	0.6	9.45
1993	0.95	-	6.05	0.1	0.5	-	7.05	0.6	7.65
Greece									
1984	3.0	3.55	6.5	0.9	0.6	2.0	10.1	6.45	16.55
1992	3.7	4.1	6.0	2.0	0.4	2.4	10.1	8.5	18.6
1993*	3.7	4.1	6.0	2.0	0.4	2.4	10.1	8.5	18.6
Ireland									
1984	0.05	-	0.45	-	-	-	0.5	-	0.5
1992	0.15	-	0.55	-	-	-	0.7	-	0.7
1993	0.3	-	0.55	-	-	-	0.85	-	0.85
Italy									
1984	4.85	8.35	7.5	21.4	4.0	6.9	16.35	36.65	53.0
1992	5.4	10.8	6.65	23.15	5.85	11.65	17.9	45.6	63.5
1993*	5.0	10.0	6.2	21.5	5.45	10.85	16.65	42.35	59.0
Netherl.									
1984*	-	1.0	-	-	-	0.15	-	1.15	1.15
1992	0.3	1.45	-	-	-	0.2	0.3	1.65	1.95
1993	0.4	1.25	-	-	-	0.2	0.4	1.45	1.85
Portugal									
1984	0.1	0.5	3.0	0.2	-	0.4	3.1	1.1	4.2
1992	0.1	0.5	5.0	0.4	-	0.8	5.1	1.7	6.8
1993	0.1	0.5	4.3	0.4	-	0.8	4.4	1.7	6.1
Spain									
1984	7.6	1.8	18.3	4.7	2.7	4.9	28.6	11.4	40.0
1992	5.6	0.6	13.6	3.9	4.4	5.2	23.6	9.7	33.3
1993	4.75	0.55	10.8	3.85	4.4	5.6	19.95	10.0	29.95
Un. King. (incl. offshore)									
1984	4.7	-	32.5	30.0	-	8.8	37.2	38.8	76.0
1992	8.5	2.0	26.1	29.7	-	9.0	34.6	40.7	75.3
1993	7.4	2.0	28.9	23.8	-	9.5	36.3	35.3	71.6
All EU member states									
1984/7	27.1	18.5	77.45	60.1	7.3	33.0	111.9	111.6	223.4
1992	32.25	21.8	73.0	62.3	10.7	38.9	116.0	123.0	238.9
1992/3	28.45	20.5	69.8	54.5	10.3	40.3	108.6	115.2	223.8

* includes estimated data on trade volume, trades area or commodity allocation
Source: Merc

ANNEX II

The 'coastal fleets' of Northern EU Member States per 1.1.1994¹

Country	No.	GRT	DWT	comments
Belgium	23	78,000	37,000	mainly ferries
Denmark	129	199,000	92,000	mainly intra-island ferries
Germany	551	774,000	1,040,000	
- national	268	312,000	413,000	mainly normal coastal vessels
- ISR	283	462,000	627,000	mainly normal coastal vessels
Ireland	54	95,000	128,000	total fleet below 10,000 DWT
Luxembourg	12	50,000	84,000	Belgian owned, < 10,000 DWT
Netherlands	237	378,000	602,000	mainly normal coastal vessels
Un.Kingdom	*237	*302,000	*463,000	mainly cargo vessels
Total Northern EU members	*1243	*1,876,000	*2,446,000	North European intra-Europe operating coastal fleets

* estimated

Source: Merc

The cabotage fleets of Southern EU Member States per 1.1.1994¹

Country	No.	GRT	DWT	comments
France	86	538,831	712,387	
- RoRo	14	136,374	*55,000	RoRo/ferries from/to Corsica
- other	72	402,457	657,387	mainly cabotage/intern.tankers
Greece	448	721,934	365,000	
- RoRo	220	381,934	*185,000	RoRo/ferry incl. 38 hydrofoils
- other	228	*340,000	*180,000	small inter island cargo fleet
Italy	377	672,500	623,500	
- RoRo	228	385,000	*150,000	RoRo/ferries + 53 hydrofoils
- other	149	287,500	473,500	mainly tankers
Portugal	21	63,000	82,000	only dry cargo vessels
Spain	172	580,411	702,279	
- mainland	85	198,402	*320,000	only cargo vessels
- islands	87	382,039	382,279	mainly liners/ferries/RoRo
Total Southern EU members	1104	2,576,676	2,485,166	Total cabotage fleets of South European Member States

* estimated

Source: Merc

¹ For the difference between "coastal" fleets and cabotage fleets see paragraphs 17-19 of the Report.

ANNEX III

DIS FLEET, JULY 1992 AND JULY 1994, BY TYPE OF VESSEL

Ship type	Number		GRT/GT		DWT	
	1.7.1992	1.7.1994	1.7.1992	1.7.1994	1.7.1992	1.7.1994
Trampers	237	228	917.548	888.612	1.555.736	1.491.373
Liners	86	98	1.990.075	2.093.198	2.216.618	2.360.305
Tankers	100	98	2.159.765	1.567.504	3.965.287	2.740.587
Pass. + Ferries	6	7	84.120	122.433	16.360	19.875
Other	44	46	55.663	65.697	64.753	75.058
Total	473	478	5.207.171	4.737.444	7.818.754	6.687.198

(source: Danish Shipowners Association)

MAR FLEET, JULY 1993 AND JULY 1994, BY TYPE OF VESSEL

Ship type	NO		GRT		DWT	
	1993	1994	1993	1994	1993	1994
Pass.vessels	2	2	2.168	13.443	674	2.722
Gen. cargo	5	9	10.205	16.021	17.311	29.239
Bulk carriers	5	3	77.563	21.152	126.112	34.132
Oil tankers	16	15	742.623	693.958	1.437.567	1.371.684
Container vessels	3	3	6.055	6.055	10.941	10.941
Gas carriers	2	2	7.605	7.605	9.557	9.557
Chemical tankers	-	1	-	3.575	-	6.260
Total fleet	33	35	846.221	761.992	1.602.162	1.464.535

(source: DGPNTM)

ANNEX IV (1)

RANKING OF SEAFARERS WAGE COSTS 1993: CHIEF OFFICERS

Nationality	Monthly Earnings Index	Earnings Plus Social Costs Index
EU:		
Denmark	184	156
Germany	166	150
France	126	148
UK	118	115
Denmark (DIS)	103	89
Netherlands	100	100
Spain	84	92
Italy	84	90
Belgium (Lux)	79	97
NEW MEMBER STATES:		
Sweden	90	100
Finland	106	102
EFTA:		
Iceland	98	92
Norway (NOR)	125	120
Norway (NIS)	136	130
Foreign Low Cost(a):		
Indian (MUI/ITF)	53	43
Indian (NIS)	43	37
Filipino (ITF/TCC)	44	36
Filipino (DIS)	39	33
Filipino (NIS)	37	32
Polish (NIS)	43	35

(a) Abbreviations in brackets refer to type of agreement

Source: ISF

ANNEX IV (2)

RANKING OF SEAFARERS WAGE COSTS 1993: ABLE SEAMEN

Nationality	Monthly Earnings Index	Earnings plus Social Costs Index
EU:		
Germany	174	161
Denmark	128	107
Denmark (DIS)	102	86
Netherlands	100	100
France	95	118
Italy	91	97
UK	78	73
Belgium (Lux)	75	90
Greece	63	61
Portugal	27	25
NEW MEMBER STATES:		
Sweden	84	93
Finland	135	129
EFTA:		
Iceland	115	106
Norway (NOR)	141	128
Norway (NIS)	144	139
Foreign Low Cost(a):		
Indian (NUS/ITF)	33	30
Indian (DIS)	32	28
Indian (NIS)	24	22
Filipino (ITF/TCC)	30	25
Filipino (DIS)	38	32
Filipino (NIS)	29	26
Polish (NIS)	31	26

(a) Abbreviations in brackets refer to type of agreement

Source: ISF

ANNEX V (1)

COMPARATIVE MANNING COSTS/ GENERAL CARGO VESSEL 1,500 GRT

Cost ranking	Register Cargo vessel 1,500	Crew Complement (number/ nationality)		Total Manning Cost (a) US\$ 1000/year	Index (German ISR = 100)
		Officers	Ratings		
1.	DIS minimum	1E + 4F	0E + 5F	266	38
2.	NIS	1E + 4F	0E + 5F	300	42
3.	Madeira (MAR)	3E + 0F	3E + 0F	340	48
4.	Netherlands	4E + 0F	0E + 3F	448	63
5.	Belgium	3E + 0F	4E + 0F	561	79
6.	Sweden	4E + 0F	6E + 0F	610	86
7.	DIS (realistic)	5E + 0F	2E + 3F	648	91
8.	Germany (ISR)	3E + 2F	1E + 4F	709	100
9.	Italy	4E + 0F	5E + 0F	736	104
10.	Finland	4E + 0F	6E + 0F	769	108
11.	Spain	5E + 0F	7E + 0F	784	111
12.	Iceland	4E + 0F	6E + 0F	826	117
13.	Norway (NOR)	4E + 0F	6E + 0F	978	138
14.	Germany	3E + 0F	5E + 0F	1.029	145
15.	France	6E + 0F	6E + 0F	1.454	205

(a) includes social costs

E: EEA nationals

F: Foreign low cost

Source: TecEcon/Merc; estimates based on ISF data.

ANNEX V (2)

COMPARATIVE MANNING COSTS/ GENERAL CARGO VESSEL 3,300 GRT

Cost ranking	Register Cargo vessel 3,300	Crew Complement (number/ nationality)		Total Manning Cost (a) US\$ 1000/year	Index (German ISR = 100)
		Officers	Ratings		
1.	DIS minimum	1E + 5F	0E + 8F	334	40
2.	NIS	1E + 5F	0E + 8F	356	43
3.	Madéira (MAR)	4E + 0F	4E + 0F	470	57
4.	Netherlands	5E + 0F	0E + 4F	566	69
5.	Sweden	4E + 0F	7E + 0F	655	79
6.	Belgium	5E + 0F	4E + 0F	778	94
7.	Germany (ISR)	3E + 2F	2E + 5F	826	100
8.	Finland	4E + 0F	7E + 0F	836	100
9.	DIS (realistic)	6E + 0F	4E + 4F	876	106
10.	Iceland	4E + 0F	7E + 0F	896	108
11.	Italy	5E + 0F	8E + 0F	1.015	123
12.	Spain	7E + 0F	8E + 0F	1.027	124
13.	Norway (NOR)	4E + 0F	7E + 0F	1.055	128
14.	Germany	5E + 0F	0E + 7F	1.575	191
15.	France	7E + 0F	10E + 0F	1.928	233

(a) includes social costs

E: EEA nationals

F: Foreign low cost

Source: TecnEcon/Merc; estimates based on ISF data.

ANNEX V (3)

COMPARATIVE MANNING COSTS/ PRODUCTS TANKER 9,000 GRT

Cost ranking	Register Cargo vessel 9,000	Crew Complement (number/nationality)		Total Manning Cost (a) US\$ 1000/year	Index (German ISR = 100)
		Officers	Ratings		
1.	DIS minimum	1E + 6F	0E + 11F	400	37
2.	NIS	1E + 6F	0E + 11F	413	38
3.	Madeira (MAR)	4E + 0F	4E + 0F	573	52
4.	Netherlands	6E + 0F	0E + 7F	729	67
5.	Belgium	5E + 0F	4E + 0F	1.063	97
6.	Sweden	7E + 0F	11E + 0F	1.089	100
7.	Germany (ISR)	4E + 3F	2E + 11F	1.092	100
8.	DIS (realistic)	7E + 0F	6E + 5F	1.102	101
9.	Spain	7E + 0F	10E + 0F	1.285	118
10.	Finland	7E + 0F	11E + 0F	1.379	126
11.	Italy	5E + 0F	8E + 0F	1.410	129
12.	Norway (NOR)	7E + 0F	11E + 0F	1.749	160
13.	Germany	6E + 0F	0E + 8F	1.848	169
14.	France	8E + 0F	12E + 0F	2.248	206

(a) includes social costs

E: EEA nationals

F: Foreign low cost

Source: TecnEcon/Merc; estimates based on ISF data.

LEGISLATIVE BACKGROUND - SUMMARY

Country	Basic Principle on Cabotage	Comment	Bilateral Agreements Relevant to Cabotage	Crew Nationality Requirements		Ownership Requirements		Fiscal Rebates
				1st Register	2nd Register	1st Register	2nd Register	
Finland	Closed to foreign vessels. As from accession open for EU.	Limited derogations.	No agreements either with EU or other EFTA countries which grant mutual access to cabotage.	Finnish citizens	May recruit foreign crew members in certain conditions by way of derogation from the usual collective labour contracts. Half of the crew may consist of members domiciled in the EEA.	60 percent of the vessel owned by Finnish citizens or Finnish registered companies.	Same as 1st Register. Registration not permitted for passenger /car ferries or vessels engaged only in cabotage.	A proportion of the taxes withheld and social security fees paid by the owner may be refunded for vessels registered in the parallel register.
Sweden	Closed to foreign vessels. As from accession open for EU.	Bilateral agreements make it possible for various foreign flagged vessels to operate in cabotage. Exemption can be gained from the Swedish Board of Maritime Transport in special cases.	Include Norway, Belgium, Ireland, the Netherlands, Portugal, France and the UK, allowing reciprocal cabotage. The agreement with Norway extends to NIS vessels.	None. All crew retained on collective wage agreements regardless of nationality.	None.	More than 50 percent owned by a Swedish citizen or corporation although the Government reserves the right to permit foreign vessels to fly the Swedish flag.		Shipowners receive full rebate of tax paid on seafarers' income and an additional cash sum of SEK 29,000 per full time employee for social cost contributions. Approximately 25 percent savings on total crew costs.
Iceland	Open coastline		None relevant to coastal maritime transport.	EEA citizens		Open to citizens of EEA countries.	Not applicable. Owners can charter foreign flag vessels for cabotage services.	
Norway	Open coastline	NIS registered vessels excluded. Scheduled passenger services must obtain a licence.	Include Sweden, Iceland, Denmark, UK and Portugal although open door policy towards cabotage means special arrangements are not required.	None except that master must be Norwegian. All crew retained on collective wage agreements.	General requirement for Norwegian master. However exemptions for other nationalities are readily obtainable.	Owner is Norwegian citizen or resident, or owner is an unlimited partnership where at least 60 percent of the ownership is with Norwegian citizens, or the owner is a limited company where at least 60 percent of the capital and operating powers are in Norwegian hands.	60 percent owned by Norwegian citizens or companies, or limited company with head office in Norway, or ship-owning partnership with Norwegian based managing owner, or owner has appointed a representative to accept writs on behalf of the owner.	All Norwegian seafarers are given special tax deduction up to 30 percent of gross income subject to a maximum of Nkr70,000 per year. Restricted to seafarers working for a minimum sailing period. Shipowners receive tax rebates for crew resident in Norway and/or liable for taxation in Norway. Restricted to NOR vessels except where NIS vessels' entire crews fulfil the necessary residency/taxation requirements.

ANNEX VII ESTIMATED PARTICIPATION BY SWEDISH, FINNISH AND EFTA VESSELS IN EU CABOTAGE TRADES BY VESSEL
TYPE (EXCLUDING NIS). NOV. 1993 - NOV. 1994

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part I

Country	Flag	General Cargo		Bulk		Tanker		Lpg/Lng		Chemical Tanker		Total	
		No	Gt	No	Gt	No	Gt	No	Gt	No	Gt	No	Gt
Belgium	FIN	4	10,190	-	-	-	-	1	6,726	-	-	5	16,916
	NOR	6	6,156	-	-	-	-	-	-	2	4,779	8	10,935
	SWE	2	3,842	-	-	-	-	-	-	1	4,311	3	8,153
	Total											16	36,004
Denmark	FIN	11	23,017	-	-	-	-	-	-	1	13,974	12	37,081
	NOR	43	38,184	1	1,199	-	-	-	-	3	3,967	47	43,350
	SWE	22	18,631	1	8,383	26	91,347	-	-	7	30,013	56	148,374
	Total											115	228,805
Irish Republic	FIN	1	4,303	-	-	-	-	-	-	-	-	1	4,303
	NOR	1	493	-	-	-	-	-	-	-	-	1	493
	SWE	4	3,810	-	-	-	-	-	-	-	-	4	3,810
	Total											6	8,606
France	FIN	1	3,826	-	-	-	-	-	-	1	6,763	2	10,589
	NOR	3	5,228	-	-	1	3,998	-	-	5	11,388	9	20,614
	SWE	3	3,758	-	-	1	7,285	-	-	2	11,303	6	22,346
	Total											17	53,549
Germany	FIN	10	28,291	-	-	-	-	-	-	-	-	10	28,291
	NOR	16	11,148	1	1,199	1	3,998	-	-	3	9,790	21	26,135
	SWE	14	15,311	-	-	12	53,841	-	-	4	22,218	30	91,370
	Total											61	145,796

Country	Flag	General Cargo		Bulk		Tanker		Lpg/Lng		Chemical Tanker		Total	
		No	Gt	No	Gt	No	Gt	No	Gt	No	Gt	No	Gt
Greece	NOR	3	2,477	-	-	-	-	-	-	-	-	3	2,477
	Total											3	2,477
Italy	FIN	1	4,303	-	-	-	-	-	-	-	-	1	4,303
	SWE	2	11,691	-	-	-	-	-	-	-	-	2	11,691
	Total											3	15,994
Netherlands	FIN	13	38,171	-	-	1	8,773	1	6,726	1	6,763	16	60,433
	NOR	20	19,248	-	-	2	4,497	-	-	8	17,519	30	41,264
	SWE	9	20,577	-	-	13	52,960	-	-	4	17,467	26	91,004
	Total											72	192,701
Portugal	NOR	11	8,351	-	-	-	-	-	-	-	-	11	8,351
	SWE	-	-	-	-	-	-	-	-	1	5,774	1	5,774
	Total											12	14,125
Spain	FIN	2	8,606	-	-	-	-	-	-	-	-	2	8,606
	NOR	8	15,734	-	-	-	-	-	-	-	-	8	15,734
	SWE	4	6,676	-	-	-	-	-	-	1	5,774	5	12,450
	Total											15	36,790
UK	FIN	10	45,023	-	-	2	56,584	2	11,505	1	6,763	15	119,875
	NOR	28	37,425	-	-	2	4,497	-	-	7	16,219	37	58,141
	SWE	14	32,475	3	27,773	19	116,840	-	-	9	56,246	45	233,334
	Total											97	411,350

Source: TecEcon, based on LMIS data

ANNEX VIII CURRENT ESTIMATED PARTICIPATION OF NIS VESSELS IN EU CABOTAGE TRADE

Country	General Cargo		Bulk		Tanker		lpg/ lng		Chemical Tank		Container		Total	
	No	Gt	No	Gt	No	Gt	No	Gt	No	Gt	No	Gt	No	Gt
Belgium	15	28,133	1	2,468	-	-	2	9,210	4	14,306	-	-	22	54,117
Denmark	42	65,167	3	8,022	6	75,670	2	13,593	2	13,593	1	2,282	56	178,723
Irish Republic	9	11,090	1	18,839	1	6,973	-	-	1	2,564	-	-	12	34,466
Netherlands	44	65,026	3	14,242	10	108,297	3	12,699	8	30,639	2	5,904	70	236,807
UK	69	142,8	7	76,716	16	229,494	13	86,683	23	152,400	3	7,078	131	695,171

Source: TecEcon, based on LMIS data

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