

EUROPEAN ECONOMIC AREA
STANDING COMMITTEE
OF THE EFTA STATES

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SUBCOMMITTEE II ON THE FREE MOVEMENT OF CAPITAL AND SERVICES

EEA EFTA COMMENTS ON THE PROPOSAL FOR A REGULATION ON THE TRANSFER OF CARGO AND PASSENGER SHIPS BETWEEN REGISTERS WITHIN THE COMMUNITY (COM(2003) 478 final)

I EXECUTIVE SUMMARY

The EEA EFTA States welcome the Commission's proposal for a Regulation on the transfer of cargo and passenger ships between registers within the Community.

The EEA EFTA States propose, for the sake of clarity and to ensure a harmonised interpretation of the Regulation, the inclusion of provisions regarding exemptions, equivalents and additional safety requirements granted in accordance with the Conventions and Council Directive 98/18 of 17 March 1998 on safety rules and standards for passenger ships.

With regard to the definitions, the EEA EFTA States propose that the wording of Article 2 (b) be amended to include Council Directive 98/18 in the definition of requirements.

I INTRODUCTION

1. In general the EEA EFTA States welcome the Commission's proposal for a Regulation on the transfer of cargo and passenger ships between registers. However, it is the view of the EEA EFTA States that some aspects could be further clarified. In particular the EEA EFTA States consider it necessary to include provisions for equivalents, exemptions and additional requirements.

II ARTICLE 4 - TRANSFER OF REGISTER

(a) Article 4, paragraph 1

2. It follows from this Article that the transfer of ships should not be impeded by technical barriers, provided that the ships have been certified as complying with the provisions of relevant conventions. It is further stated in the preamble (item 8) that “Relevant international conventions leave important points of interpretation to the discretion of the Parties” and that “Member States enforce national technical regulations, some provisions of which contain requirements other than those in the conventions”.

3. In accordance with international conventions, as referred to in Article 2 (a) of the proposal, as well as Article 7 of Council Directive 98/18 of 17 March 1998 on safety rules and standards for passenger ships, national administrations may adopt specific national measures, grant exemptions or accept equivalent solutions. There is no reference to Council Directive 98/18 in Article 4.

4. It is the view of the EEA EFTA States that for the sake of clarity and to ensure a harmonised interpretation, it should be specified in Article 4 that the vessel in question must comply with additional requirements to the international conventions and additional requirements notified by the Member State of the receiving register in accordance with Article 7 of Council Directive 98/18/EC. Otherwise a ship owner may register the ship in a register with few or no additional national requirements, and shortly afterwards transfer the ship to a register with several national requirements, without having to comply with the latter. This could lead to a possible distortion of competition.

5. Exemptions and equivalents may be adequate in the trade area of the ship under the administration of the losing register, but may not be adequate for the intended trade area under the administration of the receiving register. It is the view of the EEA EFTA States that in order to ensure that the required level of safety is achieved in the intended trade area in the receiving register, the equivalents and exemptions granted by the maritime administration of the losing register should be subjected to a re-examination by the receiving register.

6. Consequently, the EEA EFTA States suggest that Article 4, paragraph 1, first sentence be amended as follows:

“A Member State shall not withhold from registration for technical reasons arising from the conventions *or Council Directive 98/18/EC*, a ship registered in another Member State that complies with the requirements and carries valid certificates and equipment approved or type-approved in accordance with Council Directive 96/98/CE of 20 December 1996 on marine equipment.”

7. The EEA EFTA States further propose that the following be added as a new 2nd sentence (amended text in italic):

“Exemptions and equivalents granted by the losing register may be re-examined by the receiving register. Upon transfer, the vessel is no longer under obligation to fulfil additional requirements of the losing register, but shall comply with additional requirements of the receiving register provided the same requirements are imposed on the same type of vessels flying the flag of the receiving register.”

(b) Article 4, paragraph 2

8. The EEA EFTA States agree on the proposal to reinforce co-operation between the maritime administrations of the losing register and of the receiving register.

To assist the receiving register in their examination of equivalents and exemptions that a list of equivalents and exemptions granted, together with relevant conditions and documentation thereon, should be provided by the maritime administration of the losing register to the maritime administration of the receiving register. Furthermore, the receiving register should inform the losing register on any additional requirements imposed on the ship in question.

9. The EEA EFTA States propose that Article 4, paragraph 2 be amended as follows (amended text in italic)

(i) First sentence

“Upon the request for transfer, the maritime administration of the losing register shall provide the maritime administration of the receiving register all relevant information on the ship, in particular on her condition, equipment and any exemptions and equivalent solutions granted in accordance with the conventions or Council Directive 98/18.”

(ii) Insert a new third sentence:

“The administration of the receiving register shall provide information of any additional requirements it will impose on the vessel of the losing register.”

III - ARTICLE 2 - DEFINITIONS

(a) Article 2 (a) “Conventions”

10. In accordance with Article 4.1 (a), a “Member State shall not withhold from registration for technical reasons arising from the Conventions...”. The Conventions are defined in Article 2 (a). The EEA EFTA States are of the opinion that a clarification is necessary to establish whether a Member State can withhold a ship from registration for technical reasons arising from *other* Conventions not mentioned in Art. 2 (a), e.g., the Anti Fouling System Convention or other conventions.

(b) Article 2 (b) “Requirements”

11. For the sake of clarity, a reference to Council Directive 98/18/EC should also be made in Article 2 b. Consequently, the EEA EFTA States propose that Article 2, paragraph b) be amended as follows:

“Requirements” means the safety and pollution prevention requirements laid down in the Conventions *and Council Directive 98/18/EC as amended*.

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