

Maritime transport and safety: transfer of cargo and passenger ships between registers within the Community

2003/0180(COD) - 21/04/2004 - Final act

PURPOSE : to eliminate technical barriers to the transfer of cargo and passenger ships flying the flag of a Member State between the registers of the Member States while, at the same time, ensuring a high level of ship safety and environmental protection, in accordance with International Conventions. **LEGISLATIVE ACT** : Regulation 789/2004/EC of the European Parliament and of the Council on the transfer of cargo and passenger ships between registers within the Community and repealing Council Regulation 613/91/EEC. **CONTENT** : the Council agreed unanimously on a general approach, pending the European Parliament's opinion in first reading, concerning the proposal for a Regulation on the transfer of cargo and passenger ships between registers within the Community. The Regulation shall replace Regulation 613/91/EEC on the transfer of ships from one register to another within the Community, extending its scope to passenger ships, introducing an appropriate articulation with several new Community instruments on maritime safety and reinforcing co-operation between the Member States through improved information flow and shorter delays. The Regulation shall apply to : - cargo ships, carrying valid certificates, which were built on or after 25 May 1980, or were built before that date, but have been certified by a Member State or by a recognised organisation acting on its behalf as complying with the regulations for new ships defined in 1974 SOLAS, or, in the case of chemical tankers and gas carriers, with the relevant Standard codes for ships built on or after 25 May 1980; - passenger ships engaged on domestic and/or international voyages, carrying valid certificates, which were built on or after 1 July 1998, or were built before that date, but have been certified by a Member State or by a recognised organisation acting on its behalf as complying with the requirements set out for ships built on or after 1 July 1998: - in Directive 98/18/EC, for ships engaged on domestic voyages, - in 1974 SOLAS, for ships engaged on international voyages. On the other hand, this Regulation shall not apply to: - ships following delivery after completion of their construction that do not carry valid full-term certificates from the Member State of the losing register; - ships that have been refused access to Member States' ports in accordance with Directive 95/21/EC during the three years preceding application for registration and to ships that have been detained following inspection in the port of a State signatory of the Paris Memorandum of Understanding of 1982 on Port State Control and for reasons relating to the requirements defined above, more than once during the three years preceding application for registration. Member States shall nevertheless give due and timely consideration to applications in respect of such ships; - ships of war or troopships, or other ships owned or operated by a Member State and used only on government non-commercial service; - ships not propelled by mechanical means, wooden ships of primitive build, pleasure yachts not engaged in trade or a fishing vessel; - cargo ships of less than 500 gross tonnage. Concerning the transfer of register, the Regulation stipulates that a Member State shall not withhold from registration, for technical reasons arising from the Conventions, a ship registered in another Member State which complies with the requirements and carries valid certificates and equipment approved or type-approved in accordance with Council Directive 96/98/EC on marine equipment. In order to fulfil their obligations under regional environmental instruments ratified before 1 January 1992, Member States may impose additional rules in accordance with the optional Annexes to the Conventions Upon receiving the request for transfer, the Member State of the losing register shall provide the Member State of the receiving register, or make available to the recognised organisation acting on its behalf, all relevant information on the ship, in particular, on her condition and equipment. This information shall contain the history file of the vessel and, if applicable, a list of the improvements required by the losing register for registering the ship or renewing her certificates and of overdue surveys. The information shall include all the certificates and particulars of the ship as required by the Conventions and relevant Community instruments as well as Flag State inspection and Port State control records. The Member States shall cooperate to ensure proper implementation of this

paragraph. Before registering a ship, the Member State of the receiving register, or the recognised organisation acting on its behalf, may subject the ship to an inspection to confirm that the actual condition of the ship and her equipment correspond to the certificates. The inspection shall be performed within a reasonable time frame. Upon the transfer and without prejudice to Directive 94/57/EC, the Member State of the receiving register, or the recognised organisation acting on its behalf, shall issue certificates to the ship under the same conditions as those under the flag of the Member State of the losing register, provided the reasons or the grounds on the basis of which the Member State of the losing register imposed any condition or granted any exemption or waiver continue to apply. At the time of renewal, extension or revision of the certificates, the Member State of the receiving register, or the recognised organisation acting on its behalf, shall not impose requirements other than those initially prescribed for the full-term certificates insofar as requirements for existing ships and conditions remain unchanged. On the issue of refusal of transfer, the Member State of the receiving register shall immediately notify the Commission of any refusal to issue, or to authorise the issuing of, new certificates to a ship for reasons based on divergences of interpretation of the requirements or of the provisions which the Conventions or relevant Community instruments leave to the discretion of the Parties. This Regulation reinforces co-operation between national maritime administrations - according to Regulation 613/91, only ships that have been in active service under the flag of a Member State for at least six months may currently be transferred to another EU register. The new text replaces this rule by a provision that the maritime administration of the register losing the vessel must inform that of the gaining register of the improvements it required, if any, for registering the ship or renewing certificates and of overdue surveys and provide it with the history file of the vessel. Member States shall transmit to the Commission a succinct yearly report on the implementation of this Regulation. The report shall provide statistical data on the transfer of ships carried out in accordance with this Regulation and list any difficulties encountered in its implementation. By 20 May 2008 the Commission shall submit a report to the European Parliament and the Council on the implementation of this Regulation, based in part on the reports submitted by the Member States. In this report, the Commission shall assess, inter alia, whether it is appropriate to amend the Regulation. ENTRY INTO FORCE : 20/05/2004.