

Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
2003/0180(COD)	
Maritime transport and safety: transfer of cargo and passenger ships between registers within the Community	
Subject 3.20.03 Maritime transport: passengers and freight 3.20.03.01 Maritime safety	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	RETT Regional Policy, Transport and Tourism		10/09/2003
		PSE POIGNANT Bernard	
Council of the European Union	Council configuration	Meeting	Date
	Transport, Telecommunications and Energy	2551	05/12/2003
European Commission	Commission DG	Commissioner	
	Energy and Transport		

Key events			
05/08/2003	Legislative proposal published	COM(2003)0478	Summary
01/09/2003	Committee referral announced in Parliament, 1st reading		
25/11/2003	Vote in committee, 1st reading		Summary
25/11/2003	Committee report tabled for plenary, 1st reading	A5-0413/2003	
05/12/2003	Debate in Council	2551	
12/01/2004	Debate in Parliament		
13/01/2004	Decision by Parliament, 1st reading	T5-0010/2004	Summary
06/04/2004	Act adopted by Council after Parliament's 1st reading		
21/04/2004	Final act signed		
21/04/2004	End of procedure in Parliament		
30/04/2004	Final act published in Official Journal		

Technical information	
Procedure reference	2003/0180(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	EC Treaty (after Amsterdam) EC 080-p2
Stage reached in procedure	Procedure completed

Documentation gateway					
Legislative proposal		COM(2003)0478	05/08/2003	EC	Summary
Economic and Social Committee: opinion, report		CES1612/2003 OJ C 080 30.03.2004, p. 0088-0091	10/11/2003	ESC	
Committee report tabled for plenary, 1st reading/single reading		A5-0413/2003	25/11/2003	EP	
Text adopted by Parliament, 1st reading/single reading		T5-0010/2004 OJ C 092 16.04.2004, p. 0019-0091 E	13/01/2004	EP	Summary
Follow-up document		COM(2015)0195	08/05/2015	EC	Summary
Follow-up document		SWD(2015)0101	08/05/2015	EC	

Additional information	
European Commission	EUR-Lex

Final act
Regulation 2004/789 OJ L 138 30.04.2004, p. 0019-0023 Summary

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

PURPOSE : to eliminate technical barriers to the transfer of cargo and passenger ships 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. **CONTENT** : the main aim of the proposal is to strengthen certain aspects of the regime set out by Council Regulation 613/91/EEC, in the light of the experience gathered with its implementation. For legal clarity and simplicity, Regulation 613/91/EEC is repealed and replaced by a new text. A regulation is the most appropriate form of Community measure to revise an existing regulation. The European Commission proposed to update, widen and strengthen existing rules on the transfer of ships between EU registers. The proposed measure will make it easier for ships to change from one EU to another EU register. The aim is to contribute to the European Transport Policy objectives of improving the operating conditions and competitive position of European shipping whilst continuing to ensure a high level of ship safety and environmental protection. The new proposal extends the benefit of free transfer of register to passenger ships and provides for better co-operation between national maritime administrations. It builds upon the experience gathered with the implementation of current EU legislation and on recent EU and international regulatory developments in the field of maritime safety. Its aim is to further reduce the costs and the administrative procedures that the shipping industry faces when it decides to transfer ships from one register to another in the EU. The new proposed regulation will replace rules agreed in 1991. It strikes a balance between internal market considerations - such as the elimination of technical barriers to the transfer of ships between Member States - and maritime safety imperatives. Its basic philosophy is the recognition at European level that the safety standards enshrined in IMO Conventions are appropriate. Its main objectives are the following : - extend the benefit of free transport of register to passenger ships. Only cargo ships benefited so far of the free transfer possibility. However in the last years, the international regime applicable to passenger ships has been refined and a fully harmonised European technical regime was established for passenger ships built on or after the 1st of July 1998. This regime was reinforced by the recent adoption of the Commission's proposals on stability requirements for ro-ro passenger ships and on safety rules and standards for passenger ships. The Commission thus proposes to extend to all passenger ships built on or after 1 July 1998 or built before that date but complying with international requirements the free transfer of register regime. - better articulating the register regime with other EU maritime safety instruments. Most of the EU maritime safety legislation was adopted after the

present register regime was set up in 1991. It is therefore important to link the new register regime with new EU instruments such as the classification societies Directive, the marine equipment Directive and the Port State control Directive. - reinforce co-operation between national maritime administrations. 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 Commission proposes to replace 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 her certificates and of overdue surveys and provide it with the history file of the vessel. ?

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

The committee adopted the report by Bernard POIGNANT (PES, F) approving the proposal under the 1st reading of the codecision procedure, subject to just a few amendments: - for improved identification, ships registered in a Member State should display the EU emblem in a corner of their flags; - to ensure proper monitoring by Parliament and the Council, the Commission should report to them, within 4 years, on the implementation of the regulation, partly on the basis of the reports submitted by the Member States. The Commission's report should assess whether the regulation needs to be amended.?

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

The European Parliament adopted a resolution adopting several amendments to the proposal. The rapporteur was Bernard POIGNANT (PES, F). A majority of Members was against the proposal to display the emblem of the European Union in a corner of their flags for ships sailing under the flag of a EU Member State. The two amendments adopted by the Transport Committee (please see the previous document), were rejected in plenary with respectively 369 votes against, 137 in favour and 6 abstentions and with 458 votes against, 44 in favour and 5 abstentions. The proposal to integrate the EU stars onto the national flags had already been heavily opposed in the UK. The amendments adopted include the following: - a new recital states that a Member State receiving a ship must nonetheless retain the option of applying rules which differ in their scope or nature from those referred to in the conventions listed in the regulation; - ships which have been refused access to European ports under Directive 95/21/EC or which have been consigned more than once following an inspection in the port during the three years preceding the application for registration should not be able to benefit from the possibility of being transferred under the simplified system to another register within the Community; - Parliament amended the definitions of "Conventions", "certificates" and "requirements"; - the definition of "cargo ship" was amended to mean a ship which is not a passenger ship; - the definitions may be amended in accordance with the stipulated procedure to reflect international developments, including those within the International Maritime Organisation (IMO), and to make the regulation more effective in the light of experience and technical progress, provided that such amendments do not extend the scope of the Regulation. - Parliament stated that the regulation should not apply to ships delivered after completion of construction which do not hold valid non-provisional certificates issued by the Member State of the losing register. Nor should it apply to ships that have been refused access to Member States' ports in accordance with Directive 95/21/EC during the three years preceding the application for registration or to ships that have been consigned more than once during the three years preceding the application for registration as a result of an inspection in a port of a signatory State to the 1982 Paris Memorandum of Understanding on Port State Control. Member States must nevertheless consider applications pertaining to these ships in due form and in good time. Furthermore, the regulation would not apply either: 1) to warships or ships intended for the transport of troops or to other ships belonging to a Member State and used exclusively for non-commercial government purposes; 2) to ships that are not mechanically propelled, or to wooden ships of primitive construction, to yachts used for noncommercial purposes or to fishing vessels; 3) to cargo ships of less than 500 gross register tons. Finally, Parliament deleted the maximum period of three months for the suspension of a registration for reasons of security.?

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

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.?

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

The Commission presents a report on the implementation of Regulation (EC) no 789/2004 on the transfer of cargo and passenger ships between registers in the Community.

To recall, the Regulation provides that a Member State shall not withhold from registration, for technical reasons arising from three main IMO Conventions and their respective Protocols (SOLAS, MARPOL, the London Tonnage Convention 1969 and related codes), a ship registered in another Member State which complies with the relevant requirements and carries valid certificates and equipment.

The period of reference for the report is 2006-2012. The report notes that during this period, a substantial number of transfers have taken place. It refers to the [accompanying Working Document](#) of the Commission services showing the statistics on individual transfers in and out of the ship registries during this period.

Overall assessment of the implementation of Regulation (EC) 789/2004: based on the information available to the Commission, there do not appear to be any problems with the implementation of this Regulation. The Commission discusses the following:

Transfer of a ship between registers of EU Member States: the information provided to the Commission does not reveal any difficulties arising in such transfers. However, it was pointed out by some Member States that there could be difficulties where the Conventions leave margins of interpretation.

Issuing certificates: the Commission notes the fact that most Member States have not reported any difficulties in issuing certificates in line with the Regulation.

Refusal of transfer and interpretation: the general absence of any referral to the Commission by Member States or complaint by ship owners suggests that Member States have been able to deal with any problems.

Possible linkage with [Directive 2009/21/EC on compliance with flag State requirements](#): the Commission asked Member States if there was merit in combining both in one legislative instrument, but there was no clear response. However, the Commission may consider a further consolidation of appropriate legal instruments based on further assessment of its benefits.