

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(92) 105 final

Brussels, 27 March 1992

Proposal for a  
COUNCIL REGULATION (EEC)  
on the transfer of controls in the field of road and inland waterway  
transport to the Community's external frontiers

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(presented by the Commission)

EXPLANATORY MEMORANDUM

1. Article 8a of the EEC Treaty provides that the internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaty. When internal frontiers no longer exist, all controls at these frontiers will cease.

To this end the Council adopted, in December 1989, Regulation (EEC) No 4060/89,<sup>1</sup> as amended by Regulation (EEC) No 3356/91,<sup>2</sup> abolishing controls performed at the frontiers of Member States in the field of road and inland waterway transport. The Regulation lays down that such controls should no longer be carried out at internal frontiers but form part of the normal controls applied in a non-discriminatory manner throughout the territory of a Member State.

2. If internal frontier controls are abolished, checks on means of transport registered or put into circulation in a non-Community country must also be scrapped. Controls will continue to be required for such means of transport under a number of existing international agreements between the Member States or the Community and non-Community countries or future international agreements between the Community and non-Community countries. Once internal frontier controls have been abolished, any checks will have to be performed at the Community's external frontiers.

These controls will have to be carried out by the authorities of the Member State whose border forms the Community's external frontier. They will have to cover any authorization required for the means of transport in question to operate on Community territory right up to its final destination and will, where appropriate, have to ensure compliance with all the other terms of an international agreement.

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1 OJ No L 390, 30.12.1989, p.18.

2 OJ No L 318, 20.11.1991, p.1.

Proposal for a Council Regulation (EEC) on the transfer of controls in the field of road and inland waterway transport to the Community's external frontiers

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 75 thereof,

Having regard to the proposal from the Commission,<sup>1</sup>

Having regard to the opinion of the European Parliament,<sup>2</sup>

Having regard to the opinion of the Economic and Social Committee,<sup>3</sup>

Whereas the Community has embarked upon the adoption of measures leading to the progressive establishment of the internal market by 31 December 1992, which will comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaty;

Whereas the completion of the internal market will mean controls and formalities at internal frontiers relating to means of transport and the relevant documentation will have to be abolished;

Whereas, pursuant to existing Community and national legislation in the field of road and inland waterway transport, Member States perform checks, verifications and inspections relating to technical characteristics, authorizations and other documentation that vehicles and inland waterway vessels must comply with; whereas there will in general continue to be a need for such checks, verifications and inspections to prevent disruption of transport market organization and to ensure road and inland waterway safety;

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Whereas, pursuant to Regulation (EEC) No 4060/89,<sup>1</sup> as amended by Regulation (EEC) No 3356/91,<sup>2</sup> such checks shall no longer be performed at frontiers between Member States where they concern means of transport registered or put into circulation in a Member State;

Whereas, in the case of means of transport registered or put into circulation in a non-Community country, checks may be carried out with equal efficiency at the frontier between a Member State and a non-Community country and throughout the territory of the Member States concerned, whereas they should therefore be abolished in the same way as controls at frontiers between Member States also in respect of these means of transport;

Whereas checks will still have to be carried out on the means of transport of non-Community countries under certain existing international agreements between the Member States or the Community and non-Community countries or future international agreements between the Community and non-Community countries; whereas they must, however, be undertaken at the Community's external frontier;

Whereas such checks must be performed by the authorities of the Member State whose frontier forms the Community's external frontier at this frontier; whereas in particular they must cover any authorization required for the means of transport in question to operate on Community territory right up to its final destination;

Whereas Member States must ensure that checks, verifications and inspections can continue to be performed throughout their respective territories as part of the normal control procedures;

HAS ADOPTED THIS REGULATION:

#### Article 1

This Regulation shall apply to controls performed by Member States in respect of road and inland waterway transport operations effected by means of transport registered or put into circulation in a non-Community country.

#### Article 2

For the purpose of this Regulation:

- "external frontier" means the first frontier between a Member State of the Community, including ports, and a non-Community country;

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1 OJ No L 390, 30.12.1989, p.18.

2 OJ No L 318, 20.11.1991, p.1.

- "control" means any check, inspection, verification or formality performed at Member States' frontiers by national authorities which halt or hamper the free movement of the vehicles or vessels concerned;
- "international agreement" means any agreement between one or more Member States or the Community and one or more non-Community countries.

Article 3

1. Controls performed pursuant to an international agreement shall be undertaken at the Community's external frontiers.
2. Such controls shall be performed by the authorities of the Member State whose national frontier forms the Community's external frontier.
3. The authorities referred to in paragraph 2 shall refuse entry into Community territory to any means of transport which, under the terms of an international agreement, does not hold all the authorizations it requires to operate on Community territory right up to its final destination or which does not comply with any other stipulation of an international agreement.
4. Notwithstanding the controls referred to in paragraph 1 national authorities may undertake checks as part of the controls they would normally carry out throughout their territory.

Article 4

1. The controls at internal frontiers abolished by Regulation (EEC) No 4060/89,<sup>1</sup> as amended by Regulation (EEC) No 3356/91,<sup>2</sup> in respect of means of transport registered or put into circulation in a Member State of the Community shall also be abolished in respect of means of transport registered or put into circulation in a non-Community country.
2. The controls referred to in paragraph 1 may be performed by the authorities of the Member State whose frontier forms the Community's external frontier at this frontier and by the authorities of any Member State as part of the normal checks it undertakes throughout its territory.

Article 5

1. Under the terms of an international agreement and, where appropriate, the Community and Member States shall take the measures necessary to inform non-Community countries of the control measures introduced under this Regulation.

1 OJ No L 390, 30.12.1989, p. 18.

2 OJ No L 318, 20.11.1991, p.1.

2. Member States shall keep each other informed about the controls which have to be undertaken by the competent authorities at the Community's external frontiers. They shall assist each other in implementing this Regulation and shall take steps to simplify as far as possible the control formalities provided for in Articles 3 and 4.

Article 6

This Regulation shall enter into force on 1 January 1993.

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

Done at Brussels,

For the Council  
The President

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# DOCUMENTS

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