

COMMON POSITION (EC) No 13/96

adopted by the Council on 29 January 1996

with a view to adopting Regulation (EC) No .../96 of the Council on common rules applicable to the transport of goods or passengers by inland waterway between Member States with a view to establishing freedom to provide such transport services

(96/C 87/06)

THE COUNCIL OF THE EUROPEAN UNION,

be attained by the establishment of uniform rules and obligations,

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

HAS ADOPTED THIS REGULATION:

Having regard to the proposal from the Commission⁽¹⁾,*Article 1*Having regard to the opinion of the Economic and Social Committee⁽²⁾,

This Regulation applies to the transport of goods or passengers by inland waterway between Member States and in transit through them.

Acting in accordance with the procedure laid down in Article 189c of the Treaty⁽³⁾,*Article 2*

Whereas the establishment of a common transport policy involves, *inter alia*, laying down common rules applicable to access to the market in the international transport of goods and passengers by inland waterway within the territory of the Community; whereas those rules must be laid down in such a way as to contribute to the completion of the internal transport market;

Any operator transporting goods or passengers by inland waterway shall be allowed to carry out the transport operations referred to in Article 1 above without discrimination on grounds of his nationality or place of establishment, provided that he:

Whereas these uniform arrangements for market access also involve introducing the freedom to provide services by eliminating all restrictions imposed on the provider of services because of his nationality or the fact that he is established in a Member State other than that in which the service is to be provided;

- is established in a Member State in accordance with the laws of that Member State,
- is entitled in that Member State to carry out the international transport of goods or passengers by inland waterway,
- uses for such transport operations inland waterways vessels which are registered in a Member State or, in the absence of registration, possess a certificate of membership of a fleet of a Member State, and
- satisfies the conditions laid down in Article 2 of Council Regulation (EEC) No 3921/91 of 16 December 1991 laying down the conditions under which non-resident carriers may transport goods or passengers by inland waterway within a Member State⁽⁴⁾.

Whereas, following the accession of new Member States, different arrangements exist between Member States for international transport and transit by inland waterway because of bilateral agreements concluded between Member States and a new acceding State; whereas it is therefore necessary to lay down common rules to ensure the proper functioning of the internal transport market and, more particularly, to avoid distortions of competition and disturbances in the organization of the market concerned;

Whereas this action is within the Community's exclusive field of competence and whereas the objective can only

Article 3

This Regulation shall not affect the rights of third-country operators under the Revised Convention for the Navigation of the Rhine (Mannheim Convention), the Convention on Navigation on the Danube (Belgrade

⁽¹⁾ OJ No C 164, 30. 6. 1995, p. 9.

⁽²⁾ OJ No C 301, 13. 11. 1995, p. 19.

⁽³⁾ Opinion of the European Parliament of 15 November 1995 (not yet published in the Official Journal), Council common position of 29 January 1996 (not yet published in the Official Journal) and Decision of the European Parliament of ... (not yet published in the Official Journal).

⁽⁴⁾ OJ No L 373, 31. 12. 1991, p. 1.

Convention) or the rights arising from the European Community's international obligations.

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

Article 4

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

Done at . . .

For the Council
The President

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

On 30 May 1995, the Commission sent the Council a proposal for a Regulation, based on Article 75 (1) of the EC Treaty, on common rules applicable to the transport of goods or passengers by inland waterway between Member States with a view to establishing freedom to provide such transport services.

The European Parliament delivered its opinion on 15 November 1995⁽¹⁾. It did not suggest any amendments to the Commission proposal.

The Economic and Social Committee delivered its opinion on 13 September 1995⁽²⁾.

The Council adopted its common position in accordance with Article 189c of the EC Treaty on 29 January 1996.

II. OBJECTIVE OF THE PROPOSAL

The Commission proposal makes legal provision for transport undertakings of Community Member States to have free access to inland waterway transport between and through Member States. Up to now, inland waterway transport between and through Member States has been only partially covered by Community provisions on market access. The proposal also follows the judgment handed down by the Court of Justice of the European Communities on 22 May 1985 in Case 13/83 (action brought by the European Parliament against the Council for failure to act).

Austria's accession to the European Union has also made it necessary for the Council to adopt rules on access to the inland waterway transport market, because inland waterway transport agreements concluded by Austria with two Member States of the European Union are incompatible with the principle of freedom to provide services in this area.

III. THE COMMON POSITION

The common position adopted by the Council contains a number of changes to the original Commission proposal. These are set out below.

Article 1

The words 'for journeys' were deleted so as to align the wording of this Article on the title of the proposal.

Article 2, third indent

The words 'inland waterway' were inserted before the word 'vessels' to make clear that combined inland waterway and sea-going vessels are excluded.

In the same indent, the words 'are covered by' were replaced by 'possess' for drafting reasons.

⁽¹⁾ Not yet published in the Official Journal.

⁽²⁾ OJ No C 301, 13. 11. 1995, p. 19.

Article 2, fourth indent (new)

This indent was added because the Council saw fit to establish a parallel with Regulation (EEC) No 3921/91 (Cabotage Regulation) to ensure that the same arrangements would apply under the present Regulation.

Article 3

The words after 'the European Community's international obligations' were deleted. The Council considered that the reference to the 'rights arising from the European Community's international obligations' was sufficiently precise and that there was no need to refer to a particular group of third countries.
