



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27.11.2003
COM(2003) 732 final

2003/0285 (COD)

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
concerning the activities of certain third countries in the field of cargo shipping

(Codified version)

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided¹ to instruct its staff that all legislative acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that the Community rules are clear and readily understandable.

3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this², stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal Community legislative procedure.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of Council Decision 78/774/EEC of 19 September 1978 concerning the activities of certain third countries in the field of cargo shipping³. The new Decision will supersede the various acts incorporated in it⁴; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

¹ COM(1987) 868 PV.

² See Annex 3 to Part A of the Conclusions.

³ Carried out pursuant to the Communication from the Commission to the European Parliament and the Council – Codification of the Acquis communautaire, COM(2001) 645 final.

⁴ See Annex I to this proposal.

5. The codification proposal was drawn up on the basis of a preliminary consolidation, in all official languages, of Decision 78/774/EEC and the instruments amending it, carried out by the Office for Official Publications of the European Communities, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table set out in Annex II to the codified Decision.

↓ 78/774/EEC (adapted)

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

concerning the activities of certain third countries in the field of cargo shipping

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article ~~80~~ ~~80~~ (2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee⁵,

Having regard to the opinion of the Committee of the Regions⁶,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁷,

Whereas:



- (1) Council Decision 78/774/EEC of 19 September 1978 concerning the activities of certain third countries in the field of cargo shipping⁸ has been substantially amended⁹. In the interests of clarity and rationality the said Decision should be codified.

↓ 78/774/EEC Recital (1)

- (2) Information systems should be established to enable the Community institutions to be kept informed of the activities of the fleets of third countries whose practices are harmful to the shipping interests of the Member States and in particular in so far as these activities adversely affect the competitive participation of the fleets of Member States in international maritime trade. These information systems must facilitate consultation at Community level.

⁵ OJ C [...], [...], p. [...].

⁶ OJ C [...], [...], p. [...].

⁷ OJ C [...], [...], p. [...].

⁸ OJ L 258, 21.9.1978, p. 35. Decision as amended by Decision 89/242/EEC (OJ L 97, 11.4.1989, p. 47).

⁹ See Annex I.

↓ 78/774/EEC Recital (2)
(adapted)

- (3) The possibility should be provided for the necessary measures to be adopted at Community level for the joint exercise by Member States of their powers to adopt counter-measures in respect of the cargo shipping activities of certain third countries,

↓ 78/774/EEC (adapted)

HAVE ADOPTED THIS DECISION:

Article 1

Each Member State shall take all the necessary measures to institute a system allowing it to collect information on the activities of the fleets of third countries whose practices are harmful to the shipping interests of the Member States and in particular in so far as these activities adversely affect the competitive participation of the fleets of Member States in international maritime trade.

This system must enable each Member State, to the extent necessary to attain the objectives referred to in the first paragraph, to collect information on:

- (a) the level of cargo shipping services offered ;
- (b) the nature, volume, value, origin and destination of goods loaded or unloaded in the Member States concerned by the ships engaged in these services ; and
- (c) the level of tariffs charged for such services.

↓ 78/774/EEC

Article 2

↓ 89/242/EEC Art. 1

1. The Council, acting by qualified majority, shall decide to which third countries' fleets the information system shall be jointly applied.

↓ 78/774/EEC (adapted)

2. The Decision referred to in paragraph 1 shall specify the type of cargo shipping to which the information system is to apply, the date of its introduction, the intervals at which the information is to be provided and which of the types of information listed in the second paragraph of Article 1 are to be collected.

3. Each Member State shall forward to the Commission, periodically or at the request of the latter, the information produced by its information system.
4. The Commission shall collate the information for the Community as a whole. Article 4 of Council Decision 77/587/EEC¹⁰ shall apply to that information.

Article 3

The Member States and the Commission shall examine regularly, within the framework of the consultation procedure established by Decision 77/587/EEC and on the basis *inter alia* of the information produced by the information system referred to in Article 1, the activities of the fleets of the third countries specified in the Decisions referred to in Article 2 ☒ (1) ☒.

Article 4

The Council, acting unanimously, may decide on the joint application by Member States, in their relations with a third country or group of third countries regarding which a Decision referred to in Article 2 ☒ (1) ☒ has been adopted, of appropriate counter-measures forming part of their national legislation.

↓ 78/774/EEC

Article 5

The Member States shall retain the right to apply unilaterally their national information systems and counter-measures.

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Article 6

Decision 78/774/EEC is repealed.

References to the repealed Decision shall be construed as references to this Decision and shall be read in accordance with the correlation table in Annex II.

¹⁰ OJ L 239, 17.9.1977, p. 23.

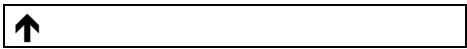
Article 7

This Decision is addressed to the Member States.

Done at Brussels, [...]

For the Parliament
The President
[...]

For the Council
The President
[...]



ANNEX I

Repealed Decision with its amendment

Council Decision 78/774/EEC	(OJ L 258, 21.9.1978, p. 35)
Council Decision 89/242/EEC	(OJ L 97, 11.4.1989, p. 47)

ANNEX II

CORRELATION TABLE

Decision 78/774/EEC	This Decision
Article 1(1)	Article 1, first paragraph
Article 1(2), introductory phrase	Article 1, second paragraph, introductory phrase
Article 1(2), first indent	Article 1, second paragraph, point (a)
Article 1(2), second indent	Article 1, second paragraph, point (b)
Article 1(2), third indent	Article 1, second paragraph, point (c)
Articles 2 – 5	Articles 2 – 5
Article 6	—
—	Article 6
Article 7	Article 7
—	Annex I
—	Annex II