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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Council Regulation (EC) No 718/1999 on a Community-fleet capacity policy
to promote inland waterway transport

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Council Regulation (EC) No 718/1999 of 29 March 1999 on a Community-fleet capacity policy to promote inland waterway transport¹ introduced a fleet capacity regulatory mechanism, the ‘old-for-new’ rule, aimed at avoiding the emergence or aggravation of fleet overcapacity on the inland waterway market in the EU. In April 2003, the ‘old-for-new’ rule was converted into a standby mechanism to be activated in the event of a serious market disturbance of the kind referred to in Directive 96/75/EC².

In line with their fleet capacity policies, Member States with inland waterways linked to those of another Member State and total fleet tonnage of over 100 000 tonnes set up an Inland Waterway Fund (the ‘Reserve Fund’) on the basis of Article 3 of Regulation (EC) No 718/1999.

The Reserve Funds are financed from the surplus funding from structural improvement schemes conducted up to 28 April 1999 and the special contributions received under the ‘old-for-new’ rule. They consist solely of financial contributions from the inland waterway transport industry and their cumulative value currently amount to around EUR 35 million.

The funds are administered by the competent authorities of the Member States concerned under their national legislation and with their own administrative resources. National organisations representing inland waterway carriers are involved in this administration in accordance with Article 3(2) of Regulation (EC) No 718/1999.

In accordance with Article 3(4) and (5) of the regulation, the reserve funds may be used in only two situations³:

A. In the event of a ‘serious market disturbance’ in the inland waterway transport market, as referred to in Article 7 of Directive 96/75/EC, the Commission may, at the request of a Member State, take suitable measures, in particular measures designed to prevent any new increase in the transport capacity on offer on the market in question.

Within the meaning of Article 6 of Regulation (EC) No 718/1999, the suitable measures are to be understood as the reactivation of the ‘old for new’ rule, for a limited period, possibly accompanied by structural improvement measures, e.g. the disbursement of premiums for the scrapping of vessels, paid from the reserve funds.

B. If unanimously requested by the organisations representing inland waterway transport. In such as case, any Member State may take the measures as referred to in Article 8 of Regulation (EC) No 718/1999.

In connection with the modernisation and restructuring of the EU fleets, the measures available to create a context favourable to the environment and safety are the following:

- make it easier for inland waterway carriers leaving the industry to obtain an early retirement pension or to transfer to another economic activity;
- organise vocational training or retraining schemes for workers leaving the industry;

¹ OJ L 90, 2.4.1999 p. 1–5

² Council Directive 96/75/EC of 19 November 1996 on the systems of chartering and pricing in national and international inland waterway transport in the Community, OJ L 304, 27.11.1996, p. 12.

³ In Germany and the Netherlands, proceeds from the funds are nevertheless used in support of inland waterway transport, in particular to support innovation (NL) or to provide professional training to inland navigation workers on a training vessel (DE). The reserve fund itself has however never been used.

- encourage private owner-operators to join trade associations;
- encourage the adaptation of vessels to technical progress in order to improve working conditions and promote technical safety requirements; and
- improve operators' skills in order to safeguard the development and future of the trade.

To date, the capital in the reserve funds has never been used. In 2009, the Netherlands informed the Commission about an alleged serious market disturbance in its inland waterway transport market and asked it to take suitable measures in accordance with Directive 96/75/EC (situation A). However, from the information provided, the Commission was unable to confirm the existence of a serious market disturbance within the meaning of the Directive.

The EU-level representative organisations approached the Commission once, in 2003, to enquire about possibilities for using the funds (situation B). However, the envisaged measures were considered to be outside the scope of Article 8 of Regulation (EC) No 718/1999.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

The Commission consulted the representative organisations on 11 April 2013 on the reasons for the reserve funds never having been used, even though the sector was experiencing a decline, and on possible solutions. They confirmed that the limited scope of Article 8 was a barrier to triggering the use of the funds. They indicated that they would be in favour of expanding the scope of the Article so as to apply the existing measures for vocational training or retraining schemes to all crew members leaving the sector. The wording of the current provision excludes owner-operators, thereby making a sizeable percentage of the sector ineligible to use the fund for this purpose, while training needs for workers are not different from those of other crew members. Stakeholders also considered that measures should be taken to strengthen professional associations who can help to mitigate the fragmentation of the sector. Furthermore, they thought it would be useful to add a measure aimed at innovating vessels and adapting them to technical progress as regards the environment, which reflects the reality being faced by the sector when comparing their environmental performance as regards emissions with other modes of transport..

3. LEGAL ELEMENTS OF THE PROPOSAL

The measures referred to in Article 8 of Regulation (EC) No 718/1999 are only covering social aspects. However, these measures could be extended in particular to broaden the scope of training schemes, to strengthen the organisation of the sector and to create a context favourable to innovation and improved environmental performance.

It is therefore proposed that the measures provided for in Article 8 be extended as following:

- give the possibility to organise vocational training or retraining schemes for all crew members leaving the industry, not only for employees (or workers);
- allow support to strengthen professional associations at Union level; and
- encourage the innovation of vessels and their adaptation to technical progress as regards the environment.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee⁴,

Having regard to the opinion of the Committee of the Regions⁵,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Regulation (EC) No 718/1999 establishes the Union fleet capacity policy for vessels used to carry goods on inland waterways in the Member States.
- (2) In connection with the modernisation and restructuring of the fleets, social measures should be envisaged to help workers who wish to leave the inland waterway industry or to retrain for jobs in another sector, together with measures to encourage the establishment of groupings of undertakings, improve operators' skills and promote the adaptation of vessels to technical progress.
- (3) To this end, the reserve fund set up in each Member State whose inland waterways are linked to those of another Member State and the tonnage of whose fleet is above 100 000 tonnes could be used if this is unanimously requested by the organisations representing inland waterway transport.
- (4) The reserve funds, consisting solely of financial contributions from the industry, have never been used.
- (5) The measures in connection with the modernisation of the EU fleet referred to in Article 8 of Regulation (EC) No 718/1999 concern only social matters. Other types of support measure for creating a context favourable to innovation and the environment are not provided for.
- (6) The measures in Article 8 of Regulation (EC) No 718/1999 concerning vocational training or retraining schemes are relevant to all crew members leaving the sector, including owner-operators and not only to those who are qualified as workers.
- (7) Article 8 of Regulation (EC) No 718/1999 provides for measures that encourage owner-operators to join trade associations, but not for measures that strengthen the

⁴ OJ C , , p. .

⁵ OJ C , , p. .

organisations representing inland waterway transport at Union level, whereas stronger Union-wide organisations can help to mitigate fragmentation in the sector.

- (8) Article 8 of Regulation (EC) No 718/1999 should therefore be complemented by measures aimed at establishing training or retraining schemes for crew other than those who qualify as "workers" leaving the industry, encouraging operators to join trade associations, strengthening professional associations and encouraging the innovation of vessels and their adaptation to technical progress as regards the environment and be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Article 8 of Regulation (EC) No 718/1999 is replaced by the following:

‘Article 8

Without prejudice to Article 3(5), any Member State may take measures in particular to:

- make it easier for inland waterway carriers leaving the industry to obtain an early retirement pension or to transfer to another economic activity,
- organise vocational training or retraining schemes for crew members leaving the industry,
- improve skills in inland navigation in order to safeguard the development and future of the profession,
- encourage owner-operators to join trade associations and strengthen the organisations representing inland waterway transport at Union level,
- encourage adaptation of vessels to technical progress in order to improve working conditions and promote safety,
- encourage innovation of vessels and their adaptation to technical progress as regards the environment.’

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President