



Chambre de Commerce
et d'Industrie d'Ajaccio
et de la Corse-du-Sud

Chamber of Commerce & Industry of Ajaccio & South Corsica

A SUMMARY OF THE CORSICAN/CONTINENTAL FRANCE
MARITIME TERRITORIAL CONTINUITY

France is one of the Member States of the European Union of which certain territories are considered as ultra peripheral regions as defined in article 299-2 of the Treaty of Amsterdam.

Several of these States have taken certain measures, for air transport as well as for maritime transport, to encourage territorial continuity in favour of their island territories.

In France, the “territorial continuity allocation” was set up in favour of Corsica and after that for the overseas territories.

! The principle and the history of the Corsican territorial continuity:

Where Corsica is concerned, the needs and requirements of a public service is for a large part the principle of territorial continuity, the objective of which is to reduce the handicaps of the isolation of an island with a low population divided by a rugged relief.

The territorial continuity, at the beginning, was based on fiction, or a convention, which consisted of theoretically abolishing the distance and the sea, by assigning to the maritime service the same conditions of frequency and of fares than those of the SNCF (French national railway company) on the basis of comparable distances.

a) The origins

It was on this basis of the rail reference that in 1976 a territorial continuity based purely on the tariff of the public service was put into place on the regular maritime lines.

A **concession of 25 years** (1976-2001) entrusting the transport of passengers and their vehicles to SNCM; the transport of goods being shared between SNCM and CMN.

Agreements made between the State and these companies make provision for allocations aimed at compensating the low tariffs used.

The price-setting is the result of a simple alignment of the SNCF tariffs (passengers, accompanied vehicles, goods on pallets). For goods vehicles a “haulage” price-setting 50% less than the previous period was applied which favoured, besides the practical reasons of continuity with land transport, the roll-on roll-off traffic to the detriment of conventional traffic (pallets and containers) and has therefore weakened the comparison with the SNCF.

In this centralized system, the supervision is carried out by the Transport and Finance Ministers, with the SNCF playing a central role, both as organizer of the territorial continuity funds, which are given to the companies, and as operator (issuing tickets, forwarding agent for SERNAM and 20% shareholder of SNCM)

A consultative committee of the Corsican maritime transport service, bringing together regional representatives and social professionals marks the beginning of decentralization. Its purpose is to offer advice on the organization of the maritime transport public service and the implementation of the territorial continuity principle (routes served, dates, times, fares) and above all the arbitration between the different Corsican ports.

As far as the transport of passengers is concerned, the systematic example of the SNCF had a very negative impact because of the lack of comfort of the facilities modelled on the SNCF compartments and the lack of cabins equipped with toilet facilities, offered on top of that at a prohibitive rate. The consequence of all this being that islanders turned to air transport, which, from 1979 also benefited from the terms of the territorial continuity.

b) The decentralization

From **1982**, the decentralization laws relative to Corsica's special status give an essential role to the region as far as transport is concerned *because it specifies with the State* "in an agreement reviewed every five years, on the basis in particular of the territorial continuity principle, the conditions of the organization of maritime and air transport between the island and the mainland particularly as far as the routes and the fares are concerned".

A Transport Office for the Corsican Region (bringing together regional representatives, social professionals, carriers, shipping companies and State representatives) is created, which in accordance with the aforementioned agreement is entrusted with signing conventions with the contract-holders and therefore managing the territorial continuity allocation, which, until 1982 continued to rise with inflation.

The **law of May 13th 1991** entrusts the entire responsibility as far as the organization is concerned (routes and fares) of maritime and air transport between the island and the mainland to the Corsican regional authority (CTC). The same law replacing the former ORTC by the Corsican Transport Office (EPIC).

From this moment on the territorial continuity allocation constitutes a special support within the general decentralization allocation given to the CTC. It is indexed to the changing rate of the global functioning allocation. Its total being set every year by the financial law.

The **law of January 22nd 2002** relating to Corsica reinforces the CTC's prerogatives and makes the European regulations consistent with the existing legislative clauses. Its article 14 stipulates that :

Article 14

" Des obligations de service public sont imposées par la collectivité territoriale de Corse sur certaines liaisons aériennes ou maritimes pour assurer le principe de continuité territoriale. Ces obligations ont pour objet, dans le cadre adapté à chaque mode de transport, de fournir des services passagers ou fret suffisants en termes de continuité, régularité, fréquence, qualité et prix et, le cas échéant, de capacité, pour atténuer les contraintes liées à l'insularité et faciliter ainsi le développement économique de l'île, l'aménagement équilibré du territoire insulaire et le développement des échanges économiques et humains entre l'île et la France continentale.

....

« Lorsque la collectivité territoriale de Corse décide de soumettre des liaisons de desserte maritime à des obligations de service public, elle peut, dans le respect des procédures de publicité et de mise en concurrence applicables, désigner pour l'exploitation de ces liaisons des compagnies maritimes dont la flotte est immatriculée dans un Etat membre de l'Union européenne ou partie à l'Espace économique européen et battant pavillon de cet Etat membre ou partie, sous réserve que les navires de cette flotte remplissent toutes les conditions fixées par cet Etat membre ou partie pour être admis au cabotage. « Pour les liaisons de dessertes aériennes ou maritimes, la collectivité territoriale de Corse peut également établir un régime d'aides individuelles à caractère social pour certaines catégories de passagers.

.... « En prenant en considération les priorités de développement économique définies par la collectivité territoriale de Corse, l'office des transports de la Corse conclut avec les compagnies désignées pour l'exploitation des liaisons mentionnées à l'article L. 4424-19 des conventions de délégation de service public qui définissent les tarifs, les conditions d'exécution et la qualité du service ainsi que les modalités de contrôle. »

The same law also transfers the ownership of the ports and the airports from the State to the CTC

c) Within the framework of the Community:

➤ Maritime coastal shipping liberalization :

Even before the end of the monopolistic service, seasonal competition had developed bound for Italy in the form of short crossings between Bastia and Italy. This rapidly supplanted the influx of traffic bound for French ports.

The EC regulation no. 3577/92 of December 7th 1992, concerning the application of the principle of free circulation of the maritime transport services within the Member States (maritime coastal shipping), establishes in theory from **January 1st 1993 free access to the maritime market for Community shipping companies** running vessels registered in a Member State and flying the flag of this State even if existing public service contracts remain in effect until their expiry date. Liberalization due to temporary exemptions came about gradually over several years and the equal access for European shipping companies to the national maritime island traffic was in fact only acquired on **January 1st 1999**.

Corsica Ferries can therefore open (without a subsidy) lines to Nice and to Toulon (2000) by running the Mega Express, which is fast and reliable and adapted to shorter crossings than those to Marseille.

➤ Public Service Obligations (PSO) :

Maritime transport for passengers is vital for the islanders of Europe. It is for this reason that a set of specific rules was established in order to ensure for certain routes a level of quality which wouldn't allow a service by private operators acting as part of a deal.

The Community legislation as far as PSO are concerned only deals with national maritime coastal shipping, that is to say, sea transport of passengers or goods from ports situated on the continent and one or several islands from only one and the same Member State.

The EC regulation no. 3577/92 offers Member States a framework to intervene coherently in the market by means of access restrictions or financial aid linked to the public service obligations imposed on the maritime service suppliers.

The lines subject to PSO must be bound for the islands and from the islands. The initiative and the contents of the PSO for the regular service comes within the competence of the State or their competent authorities.

The regulation sets apart the PSO – that if the shipping company considered its own commercial interest, it wouldn't fulfill, or not to the same standards, the conditions – which are the ports and routes, the regularity, the continuity, the frequency, the capacity, the tariffs, and the “public service contracts” which often have quality requirements.

The drawing up of the PSO must adhere to the principle of non-discrimination and the conditions relative to the regularity and the frequency of the service can in theory be satisfied collectively by several shipping companies offering their services on the same route.

When a competent authority from a Member State concludes a “public service contract”, it must respect the rules applicable to the public works contract (in the case

of France, obligations laid down in the Sapin law of January 29th 1993 and codified in the General Code of Territorial Regions) and in particular there must be enough advertising to ensure real competition, a clear and non-discriminatory selection process, in fact there should be an invitation to Community tenders.

It is also possible, in a duly justified case and for a limited period of time, to grant exclusive rights to one shipping company for a route subject to PSO, the restriction to the freedom of commerce being compensated by the appeal for Community proceedings in an open court.

Island maritime transport rules with regard to the Community regulations and the mechanism imposed on the PSO (source Eurisles)

<p>Geographical framework</p>	<p>Apparently, only the national coastal shipping, that is to say the lines between the mainland of the Member State and its islands or between its islands. The legislation says nothing about lines between islands and other Member States.</p>
<p>Form</p>	<ul style="list-style-type: none"> - Either the implementing of “<u>public service obligations</u>”, that is the obligations that if the Community shipping company in question considered his own commercial interests, didn’t meet, or not in the same way nor under the same conditions his responsibility. - Or the signing of a “<u>public service contract</u>”, that is a contract concluded between the competent authorities of a Member State and a Community shipping company in the aim of providing sufficient public transport services.
<p>Requirements</p>	<p><u>Public invitation to tender with adequate advertising, open to all Community shipping companies.</u></p> <p>a)Public service obligations. If they impose public service obligations, the Member States make demands concerning the ports to be used, the regularity, the continuity, the frequency, the capacity to deliver the service, the rates offered and the ship’s crew. Any compensation due, if need be, in return for public service obligations, must be paid to all Community shipping companies.</p> <p>b) Public service contract. A Member State can conclude a public service contract with navigation companies which participate in regular services to and from islands as well as between islands, or impose public service obligations as a condition to the coastal shipping service benefit. When a Member State concludes public service contracts or imposes public service obligations, it does so on a non-discriminatory basis with regard to all the Community shipping companies. A public service contract can in particular apply to :</p> <ul style="list-style-type: none"> - transport services meeting fixed standards of continuity, of regularity, of capacity and of quality, - supplementary transport services, - transport companies with determined prices and conditions especially for certain categories of passengers or for certain lines, - adapting the services to the real needs.

Functioning and Compensation	<ul style="list-style-type: none"> - The Member State must award the contract to the most competitive bid, which, “except in exceptional and duly justified cases” , will be that which is the moins-disante - The compensation must be limited to covering the deficit resulting from the PSO, taking into account a reasonable return on the capital. - The deficit must, in theory, be calculated for each service, so that it is not possible to over-compensate or to give grants to one service crossed with another. - The route can be reserved to only one operator as long as no other rival operator has made his intentions clear to carry out a regular service on this route.
Length of contract	The length of the public service contract must in theory be limited to 5 years.
Other arrangements	At present, for vessels carrying out costal shipping with the islands, all questions concerning crew comes under the responsibility of the State in which the vessel operates the maritime transport service (home State).

➤ **Public aid :**

In the case of Corsica, two systems are jointly implemented:

1. Within the framework of coastal shipping, financial compensation which can be granted by the States. It is exclusively aimed at compensating costs directly linked to the Public Service Obligations imposed (former articles 92 and 93 from the Treaty) and not to cover running losses.
2. Grants of a social nature which are not attached to a specific transport regulation but which benefit certain categories of the population.

	Legal basis	Implications
Specific Transport regulations (Public Service Obligations – PSO)	<u>Article 73 of the Treaty</u> - Concerning maritime transport - EC regulation no. 3577/92 (Community leanings JOCE C 205, 1997) - Concerning air transport - EC regulation no. 2408/92 (Guidelines JOCE 94/C350/07)	<u>Applicable aid regulations for transport companies:</u> - in air transport to inter-community lines with peripheral regions - in maritime transport, specific regulations for coastal shipping with/or between island.
Social grants	<u>Article 87.2a).</u> Committee’s decision on June 22 nd 1987 (JOCE 87/359/EC):	Direct subsidies reserved for certain social categories, including resident islanders

(From Eurisles)

II The current system of maritime territorial continuity :

The objective of territorial continuity is implemented by the combination of two operations:

a) The public service delegation:

The maritime public service *stricto sensu* concerns the lines Corsica – Marseille. It is decided, after a Community invitation to tender, to jointly contract the two companies SNCM and CMN for a five-year period.

Its aim is lines to 5 island destinations (Ajaccio, Bastia, Balagne, Propriano, Porto-Vecchio). Thorough PSO are imposed in terms of frequency, capacity, vessel types and destinations, which are compensated by financial subsidies (72.7 million Euros for SNCM and 27.6 million for CMN in 2006).

A renovation of the maritime passenger transport service was undertaken, taking into account the demands of the comfort of the cabins (of which fares have decreased by 50%) and the restaurants, while at the same time abandoning the reference of the SNCF.

The two elements of the public service:

- *The basic service* : concerns the annual service of the 5 aforementioned destinations, and is mainly operated by passenger-cargo ships adapted to all the Corsican ports which allows an improvement in the quality of service: the capacity (500 passengers), the comfort and above all the frequency (daily crossings from Ajaccio and Bastia and twice or three times weekly for the secondary ports).
For the Marseille - Corsica route the passenger-cargo ships are the main passenger transporters even if car ferries are essential in the peak summer season and deal with 64% of the traffic.
- *The supplementary service:* is aimed at reinforcing the service during peak periods (school holidays) with car ferries:
 - Christmas
 - February
 - Spring/Autumn
 - SummerIn terms of financial compensation, the supplementary service represents 34 million of the 67 million Euros received by SNCM in the form of the public service delegation.

b) The system of social aid for passengers:

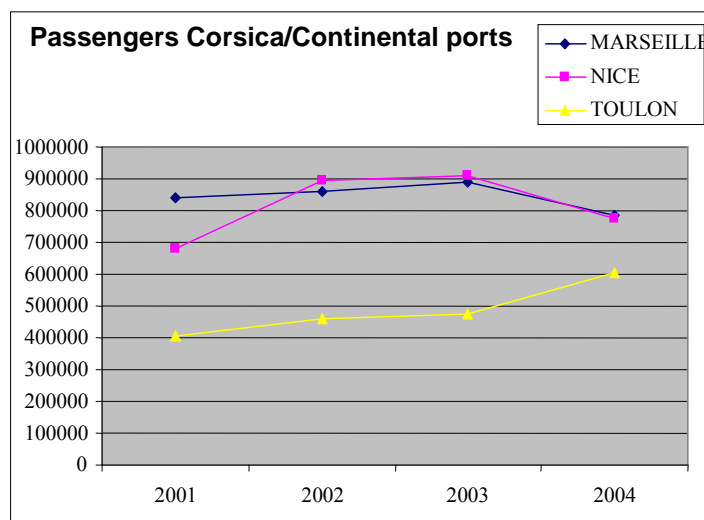
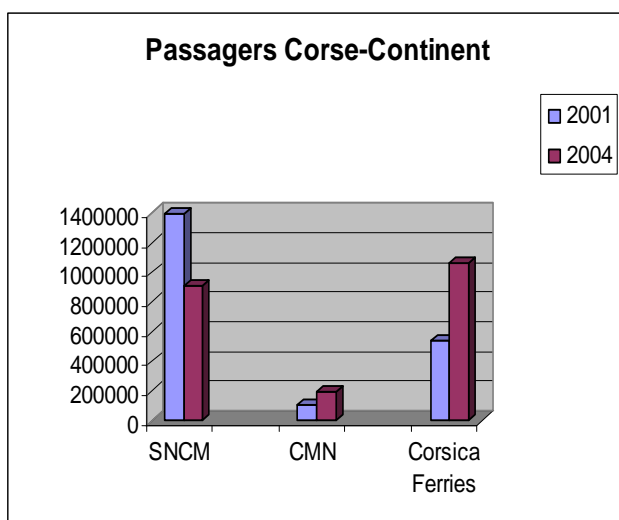
In 2002, within the framework of article 87.2 of the Treaty, and like the system already in place for air transport for the Toulon and Nice lines, a system of social aid is set up aimed at Corsican residents, but also at certain other social categories (young people, Senior Citizens, large families). This system reaches a maximum

level of 65% of the traffic and benefits not the companies but the passengers directly, thanks to a subsidy of 15 or 20 Euros per person.

The social aid for passengers has proved to be a very powerful lever for the resolution of peak-time traffic and for attracting new customers and far more effective than the supplementary service subsidies (93 Euros per passenger in 2004).

This system has given a boost to the competition of Corsica Ferries, who, have equipped their fleet with particularly efficient vehicles, the Mega Express, especially suited to the shorter routes of Nice and Toulon and whose traffic peaked at 600,000 passengers in 2004.

If Marseille still remains the first mainland destination (mainly for freight), its supremacy is from now on seriously threatened as far as passengers are concerned. SNCM has lost its leadership not only of global traffic (mainland and Italy), but also of traffic bound to mainland France.



Passengers Corsica-Continental Europe

III The transport of goods

Since abandoning the reference of the SNCF, the tariffs for goods have been made considerably easier and consist of direct compensation, on the Marseille line, to the producer, reaching as much as an 80% discount on maritime freight (even up to 90% for industrial and food-processing products).

The industrial products and the exported waste are managed by the Corsican Transport Office and COFREMAR, the agricultural and food-processing products by the ODARC.

CIE	ML TRANSPORTES	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
S.N.C.M.	CARGO	281 443	297 473	312 580	283 198	292 052	303 011	318 091	345 386	363 086	366 205	365 572	389 546	377 867
C.M.N.	CARGO	254 154	260 442	268 967	272 365	259 178	259 952	279 062	286 999	314 192	323 515	336 844	322 969	331 697
C.F.	MEGA											45 047	94 538	122 553
TOTAL		535 597	557 915	581 547	555 563	551 230	562 963	597 153	632 385	677 278	689 720	747 463	807 053	832 117

IV The maritime territorial continuity summarized:

1. Passenger statistics

Passengers entitled to the territorial continuity aid in 2004

DSP SNCM	DSP CMN	Social Aid SNCM	Social Aid CORSICA FERRIES	TOTAL
<u>582 622</u>	<u>201 186</u>	<u>324 000</u>	<u>1 020 000</u>	<u>2 127 808</u>

2. Financial aid:

In 2004:

▪ **Total Territorial Continuity allocation: 173.968 million Euros**

▪ **Of which for maritime:**

- i. Public service allocation SNCM : 67 61 753 Euros
- ii. Public service allocation CMN : 25 089 701 Euros
- iii. Social aid : 15 200 000 Euros

In 2006

Total Territorial Continuity allocation 177.6 million Euros

▪ **Of which for maritime :**

- iv. Public service allocation SNCM : 72 733 000 Euros
- v. Public service allocation CMN : 27 694 000 Euros
- vi. Social aid : 16 500 000 Euros

(Source OTC)

The important dates in the history of the Corsica-mainland link

1948 : The General Transatlantic Company (ex Fraissinet Co.) is entrusted with the maritime service between Corsica and the mainland within the framework of a convention signed with the State.

1970 : Introduction of roll-on roll-off techniques which put an end to vertical handling.

1976 : Establishment of the territorial continuity; the idea in the beginning is that the cost of maritime transport be the same as railway transport. A 25-year concession is granted to CGTM, later becoming SNCM and CMN.

1982 : The task of the organization of the Corsican maritime service is entrusted to the administrative region of Corsica.

End of the 80s : The cargo boats transform little by little into passenger-cargo ships, thus welcoming passengers on board.

1987 : The first continuity convention is signed with the Corsican Transport Office (OTC) for the period 1986-1991

1992 : European directive giving free reign to coastal shipping.

1996 : Launching of the first NGV (high-speed vessels) between Nice and Corsica and of the cruise-ferry *Napoléon Bonaparte*. Until then confined to Italy, Corsica Ferries gets a foot-hold at Nice.

2000 : Corsica Ferries opens a line to Toulon.

2001 : Arrival of the fast vessels Mega Express.

2002 : Implementation of the first contract of the public service delegation of territorial continuity after European competition. The Corsican Transport Office has changed the rules: the PSO are tied to the ports of Marseille, Toulon and Nice, the aid is tied to the passenger.

2005 : Corsica Ferries becomes the main company with lines to Corsica from the mainland.

2007 : Second continuity contract with new conditions still drawn up by the Corsican Transport Office.