Maritime transport: application of the European competition rules (Regulation (EEC) No 4056/86). White Paper

2005/2033(INI) - 01/12/2005 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the own-initiative report drafted by Rodi **KRATSA-TSAGAROPOULOU** (EPP-ED, EL) on the Commission's paper on applying competition rules to maritime transport. (Please see the summary of 11/10/2005.)

General: The purpose of the review of Regulation 4056/86/EEC should be to preserve, and promote the expansion of, a viable and competitive European shipping sector within the framework of the Lisbon Strategy in conjunction with transport policy strategy. It is vital to do so especially in view of the fact that new maritime powers have emerged, namely China, South Korea, and Taiwan. Parliament called upon the Commission carefully to consider the consequences of a possible alternative system for the entire marine transport sector, namely members and non-members of liner conferences and their competitors (independent bodies) their customers (shippers) and the final consumers. The conclusions of a recent study do not provide a solid basis for abolishing the block exemption for maritime conferences. The Commission must take this into consideration in the framework of its new proposal. If the Regulation is amended, the Commission should bear in mind existing operating regimes in other countries (USA, Australia, Japan and Canada), since any misalignment of the European system might create destabilising socio-economic effects worldwide and lead to protectionist measures.

Parliament emphasised the likelihood of adverse consequences in the event of a general overhaul of the system, not so much for large merchant shipping lines, but rather for small and medium-sized ones, and stated that there is no evidence that the abolition of liner conferences will bring about a fall in prices.

Liner conferences: Parliament supported the Commission's intention to review - rather than repeal - Regulation 4056/86/EEC with a view to ensuring compatibility with the rules of competition, chiefly by excluding the possibility of a direct fixing of freight prices and by authorising the fixing by the conferences of a reference price or a price index under an alternative system, in accordance with the case law of the European Court of Justice. The review will ensure that surcharges and associated costs are calculated transparently and after dialogue with shippers. Parliament stressed that any such review must safeguard the stability of freight rates, the high quality of services and sound competition for all enterprises, whatever their size.

Any new regulation might be made to come into force for a limited period of five years after the expiry of which an assessment would be carried out. Whichever alternative solution is chosen, a transitional period should be envisaged to enable all operators (carriers, shippers and other industry players) to adapt to the new regulatory framework.

The Commission is asked to hold discussions with the other contracting parties before proposing amendment or repeal of Regulation 4056/86/EEC, so as to find the most appropriate method of adaptation for Member States (those than still have bilateral commitments under the Code of Conduct) to the possible new legal status, with a view to avoiding any adverse consequences.

International tramp vessel and cabotage services: The tramp sector remains overwhelmingly deregulated and operates on the basis of the rules of fair competition. Parliament supported the Commission proposal for these services to be brought within the scope of the Regulation. The cabotage

services sector has already been deregulated pursuant to Regulation 3577/92/EEC. Given that these services are carried out between ports in one and the same Member State , intra-Community trade between the Member States is not affected and consequently there is no need or legal obligation for this sector to be brought within the scope of Regulation 1/2003/EC.

Purely technical agreements: Parliament called upon the Commission not to continue with the proposal to abolish the arrangements contained in Article 2 of the Regulation governing the legality of technical agreements, since it believed that retaining a purely legal framework governing technical agreements will contribute to legal certainty and a better orientation for service providers.

Conflict of laws: Finally, theCommission is asked not to continue with the proposal to repeal Article 9 of Regulation 4056/86/EEC which provides for negotiations to be held in the event of a conflict between Community law and the law of third countries, especially in view of the Commission's intention to revise competition law relating to maritime transport.