

# Maritime transport: cabotage and international tramp services

2005/0264(CNS) - 14/12/2005 - Legislative proposal

PURPOSE : to repeal the block exemption for liner shipping conferences.

PROPOSED ACT : Council Regulation.

CONTENT : liner shipping, the provision of regular, scheduled maritime freight transport, has been organised in the form of cartels – called liner conferences - since the 1870s. These bring together most or all lines operating container services on a particular route. Defenders of conferences claim that the liner shipping market is unique, requiring special competition law treatment. However, in the 20 years that the block exemption has been in force, the market has changed considerably. A block exemption gives assurance that the agreements concerned are compatible with EU competition rules, provided that the agreements respect requirements set out in the Regulation. EU competition rules require that the positive effects brought about by a restrictive agreement outweigh its negative effects and that a fair share of these benefits be passed on to consumers. The Commission has reviewed Regulation 4056/86/EEC concluding that the conditions for granting the block exemption are not fulfilled.

More specifically, this proposal aims to repeal the block exemption of liner conferences from the EC Treaty competition rules' ban on restrictive business practices (Article 81). The current block exemption, established by Council Regulation 4056/86/EEC, allows carriers to fix prices and regulate capacity jointly. Repealing the exemption will benefit EU exporters by lowering transport prices whilst maintaining reliable services. This will enhance the competitiveness of EU industry, furthering the Lisbon Strategy.

To allow shipping lines time to adapt to a competitive market and to give Member States time to review their international obligations, the Commission proposes that the repeal of the block exemption should take effect only two years after adoption by the Council of the decision to do so.

In addition, the proposal also covers tramp and cabotage services. Tramp services are the non-regular, maritime transport of non-containerised bulk cargo, and include economically important services such as the transport of oil, agricultural and chemical products. Cabotage services are maritime transport services between ports of a single Member State. The proposal to bring these services under Council Regulation 1/2003/EC, the common competition implementing rules (by deleting Article 32 of Council Regulation 1/2003/EC), does not involve a change to the applicable law as EU competition rules already apply to the sectors. It rather establishes equality of treatment between these sectors of the economy and all others to which the implementing rules already apply.

The Commission and the liner shipping industry have discussed whether a replacement of the conference system is necessary. If the current block exemption is repealed, the Commission is minded to issue appropriate guidelines on how to apply competition rules to all forms of co-operation in the maritime transport sector, including information exchange. This would help smooth the transition to a more competitive environment. The guidelines which should be brought forward by the end of 2007, would treat issues such as an independent data warehouse, the creation of a trade association and of trade fora, the publication of a price index and common formulae for charges and surcharges. The guidelines will explain how the competition rules apply to the liner sector in general, including timely and regular exchange and publication of capacity utilisation information. As an interim step, the Commission will publish an issues paper on liner shipping in September 2006.

Lastly, if the liner conference block exemption is repealed all carriers (both EU and non EU) that are presently part of conferences would no longer be allowed to fix prices and regulate capacity on those trades. Given the definition of a conference this implies that conferences would no longer operate on trade lanes to and from the Community. Nothing would impede these carriers to continue being part of conferences on other (non EU) trades.