Basic information

2005/2033(INI) INI - Own-initiative procedure	Procedure completed
Maritime transport: application of the European competition rules (Regulation (EEC) No 4056/86). White Paper **Subject** 2.60 Competition 3.20.03 Maritime transport: passengers and freight	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
TRAN Transport and Tourism	KRATSA-TSAGAROPOULOU Rodi (PPE-DE)	15/03/2005

Committee for opinion	Rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	
ITRE Industry, Research and Energy	The committee decided not to give an opinion.	

Key events

Date	Event	Reference	Summary
13/10/2004	Non-legislative basic document published	COM(2004)0675	Summary
10/03/2005	Committee referral announced in Parliament		
11/10/2005	Vote in committee		Summary
24/10/2005	Committee report tabled for plenary	A6-0314/2005	
30/11/2005	Debate in Parliament		
01/12/2005	Decision by Parliament	T6-0466/2005	Summary
01/12/2005	Results of vote in Parliament		
01/12/2005	End of procedure in Parliament		

Technical information	
Procedure reference	2005/2033(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/6/26556

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Amendments tabled in committee		PE362.679	19/09/2005	
Committee report tabled for plenary, single reading		A6-0314/2005	24/10/2005	
Text adopted by Parliament, single reading		T6-0466/2005	01/12/2005	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2004)0675	13/10/2004	Summary
Commission response to text adopted in plenary	SP(2005)5015	15/12/2005	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1650/2004 OJ C 157 28.06.2005, p. 0130-0136	16/12/2004	

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

2005/2033(INI) - 13/10/2004 - Non-legislative basic document

The purpose of this White Paper is to present the way forward in the maritime transport competition area. In particular, the paper analyses whether to maintain, modify or repeal the currently applicable provisions of Regulation 4056/86.

The main issue of the review is the present block exemption for certain restrictive practices by liner conferences, in particular price fixing and supply regulation.

However, the review also covers some other provisions contained in Regulation 4056/86, that is the exclusion of certain maritime services (cabotage (that is national maritime services) and tramp (non-scheduled) services) from the competition implementing rules, a provision for technical agreements and a provision on conflict.

In the 18 years since the adoption of Regulation 4056/86, the liner shipping market has changed. In particular, the role of carriers offering liner shipping services outside a conference (independent operators) on most routes to and from the EU has become more important. Furthermore, operational forms of co-operation between carriers (not involving price fixing), such as consortia and alliances have increased. What is more, there has been a

substantial growth of individual confidential contracting between carriers and shippers, such as individual service contracts. These developments raise the question whether a block exemption for price fixing and capacity regulation by liner conferences is still justified under Article 81(3) of the Treaty.

It has been agreed with the Member Statesthat the review is a three step process, consisting of: 1) fact finding, 2) a Commission paper and 3) a proposal for legislation. The review process started in March 2003, with the publication of a consultation paper.

In total, 36 submissions were received, from providers of liner shipping services (carriers), transport users (shippers and freight forwarders), Member States, consumer associations and others.

Following a public hearing that took place in December 2003, the Commission’s Competition DG has set out the outcome of the consultation process and its preliminary analysis in a discussion paper which served as a basis for a discussion with the Member States in May 2004.

In light of the conclusions reached by the Commission, the following proposals emerge in this White Paper:

- To consider repealing the currently applicable substantive provisions of Regulation 4056/86, in particular the block exemption for liner conferences and the exception for technical agreements.

- To examine what type of instrument would be needed to replace Regulation 4056/86 and make an appropriate proposal in that regard, taking into account also the competitive position of the EU liner shipping industry in a global context.

- To carefully examine the ELAA proposal as set out in this paper in light of the comments received from interested third parties, as well as any other proposal that might be made by the industry or other interested parties.

- To propose a change to Regulation 1/2003, as to remove the current exclusion of tramp and cabotage services from its scope.

- To carefully examine whether there are reasons to maintain a conflict of laws provision.

The Member States , all other institutions and interested parties are invited to submit comments on this White Paper within two months from publication (i.e. 13/10/2004).

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.