

Brussels, 14th December 2005

Competition: Commission proposes repeal of exemption for liner shipping conferences

The European Commission has proposed 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, 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. The Commission proposal would also bring maritime tramp and cabotage services under the scope of the competition implementing rules (Regulation 1/2003), giving the Commission jurisdiction to apply the competition rules in the sector. The proposal to repeal Council Regulation 4056/86 will now be forwarded to the EU's Council of Ministers for adoption by qualified majority and to the European Parliament for consultation. After its adoption the Commission will publish guidelines on the application of the competition rules to the sector.

Commissioner Charlie McCreevy, who is handling this proposal, said "The European shipping industry is strong and has everything to gain from a competitive market. Customers are clamouring for business in this industry to be conducted as it is in all other sectors. I call on the Council to adopt this proposal quickly so that the benefits to the EU economy can kick in."

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, concluding that the conditions for granting the block exemption are not fulfilled. The review of the block exemption was also undertaken in the context of the Lisbon European Council conclusions in 2000 which called on the Commission to speed up transport liberalisation.

Liner shipping is an important part of the EU economy - 40% by value of EU external trade by sea is transported by liner carriers - about 18% of all imports and 21% of all exports transported by land, sea or air. But liner conferences do not deliver the benefits for which the block exemption was established and the Commission's impact assessment shows that lower transport prices are likely to result from the block exemption's repeal. The impact on the shipping industry itself is also expected to be positive: service quality and innovation are likely to improve.

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.

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.

The Commission's 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, the common competition implementing rules, 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.

Any guidelines would also cover the application of EU competition rules to tramp services. The Commission has already started discussions with industry to better identify concerns and will be tendering a study on the characteristics of the tramp shipping market.

For further information, see [MEMO/05/480](#).