



ECSA Newsletter

European Community Shipowners' Associations

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COMPETITION RULES

Guidelines on the application of EU Competition Rules on maritime transport services appreciated by the industry

On 01/07/08 the Commission adopted Guidelines on the application of EU Competition Rules on maritime transport services. In September 2006 the Council of Ministers agreed to repeal the block exemption for liner conferences (Regulation 4056/86) taking effect as from October 2008. At the same time the Council agreed to give the Commission implementing powers on the application of competition rules to tramp shipping as from 18 October 2006.

The above decisions were followed by a long consultation process and discussions and submissions by stakeholders and Member States.

For liner shipping the new Guidelines confirm that liner operators may exchange information and/or meet in a trade association. The Guidelines explain how this can be done and summarise the legal position on the extent of exchange of information and discussions within such trade association.

Tramp shipping has always been subject to the EU Competition Rules, however up to 18 October 2006 the competence to implement the Rules was solely with Member States. As from 18 October 2006 the Commission has also implementation powers.

Since the tramp shipping sector was terra incognita for many the shipping industry, through ECSA, started an information and discussion process with the Commission services. Moreover the ECSA Membership organised explanatory visits for the

Commission services in Copenhagen, Athens, Oslo, London and Antwerp, allowing more insight into the daily working of the tramp sector.

The Guidelines issued on 1 July are appreciated by the industry since they take into account the specific character of the tramp sector and will be useful in the continued self assessment exercise of tramp operators. The factual approach towards tramp pools indicating the different options for self assessment will be a good guidance for the tramp sector.

The full text of the Guidelines is available on the ECSA website

<http://www.ecsa.eu/publications/084.pdf>

CELEBRATION OF ECSA/ETF AGREEMENT ON THE ILO MARITIME LABOUR CONVENTION 2006 WITH COMMISSIONERS SPIDLA AND TAJANI, 3rd JULY.

In the presence of Commissioners Spidla (Social Affairs) and Tajani (Transport), together with other EU officials, ECSA and the ETF will be holding a celebration today 3rd July at the Port of Brussels to mark the Agreement between the social partners to transpose parts of the ILO Maritime Labour Convention into EU law. This follows legal scrutiny of the text by the Commission's legal services and the formal signing of the Agreement on 19th May.

The MLC 2006 brings together and updates more than 60 ILO instruments, uniquely covering on a global basis such areas as conditions of employment, working hours, accommodation, medical treatment, minimum age and recruitment. It is widely regarded as the 'fourth pillar' of the international regulatory system following the SOLAS, STCW and MARPOL Conventions, and provides a global level playing field for shipping.

The Social partners have urged ratification of the MLC as soon as possible, with the Council Decision of 2007 encouraging them to do so by 2010. Ratification by EU Member States will deliver the critical mass for making the Convention effective for application.

FRENCH PRESIDENCY OF THE EU

France took over the Presidency of the EU from Slovenia for the period 1 July – 31 December 2008. As far as maritime transport is concerned the Presidency will concentrate on the 2nd reading process of the relevant proposals of the Maritime Safety Package III. Attention will also be given on the two proposals on which the Council has as yet not come to an opinion notably Flag State Compliance and Civil Liability of shipowners. Further attention will be given to Ship Emissions, Motorways of the Sea and the maritime transport policy 2008-2018.

At its meeting in Oslo on 20 June the ECSA Board of Directors had an interesting and constructive exchange of views with Director General Daniel Bursaux of the Presidency on the different issues that are on the programme.

The Czech Republic will succeed France in the Presidency as from 1 January 2009 until 30 June 2009.

SHIP-SOURCE POLLUTION

On 3 June, the European Court of Justice (ECJ) ruled that the validity of Directive 2005/35/EC on criminal sanctions for ship-source pollution could not be assessed in the light of the MARPOL Convention and UNCLOS because the European Community is not bound by MARPOL and UNCLOS does not apply directly to individuals. The ECJ furthermore ruled that the standard of liability in the Directive of 'serious negligence' does not infringe the principle of legal certainty.

The practical effect of the ECJ's decision is that Directive 2005/35/EC remains valid.

On 26 June, the European Court of Justice (ECJ) ruled that hydrocarbons/ heavy fuel oil spilled by a ship is considered waste in

the meaning of the Waste Directive if it is mixed with water and sediment.

The Waste Directive does not preclude EU Member States from providing for limitations or exemptions of liability, pursuant to the Civil Liability Convention and Fund Convention, for the benefit of the shipowner and the charterer.

MODERNISED CUSTOMS CODE ***Publication in the Official Journal***

The Council of Ministers and the European Parliament agreed in early 2008 on the Modernised Customs Code (MCC), which is expected to replace the current Customs Code as of 2013.

The final version of the MCC, as laid down in Regulation 450/2008 of 23 April 2008, is published in the Official Journal of 4 June.

The provisions of the MCC will now be further developed through Implementing Provisions. The discussions on these Implementing Provisions will take place after the summer break.

TRADE FACILITATION – COUNTRY COMPARISONS

While the overall WTO-DDA negotiations are struggling and a Ministerial meeting by end July for setting political targets and the further agenda is still uncertain, the negotiations on Trade Facilitation have progressed well with wide support. All appreciate that Trade Facilitation, including not only customs but all controlling agencies and procedures in cross border trades like international shipping of goods, is a prime area for improving efficiency and trade flows. In June ECSA attended two seminars on Trade Facilitation in Sub-Sahara Africa, one by the World Bank managed Global Facilitation Platform and one by the OECD. The meetings were most constructive and attended largely by customs and trade officials together with some business representatives. Apart from the positive experiences exchanged on self-assessment, due interest was raised by the World Bank studies on Transport Results (see

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[http://www.worldbank.org/transport/transp
ortresults/home.html](http://www.worldbank.org/transport/transp
ortresults/home.html)), particularly on
Trade Logistics and the PLI index, offering
scorecards and comparisons covering 150
countries.

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