



ECSCA Newsletter

European Community Shipowners' Associations

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TRANSPORT COUNCIL OF 9 OCTOBER 2009

The Council of Transport Ministers met in Luxembourg on 9 October to discuss, inter alia, the following issues:

1. The Future of Transport

The Council held a public debate on the Commission Communication on a future transport policy. The debate was aimed at giving input to the drawing up of a White Paper on the European transport agenda for the next decade, to be published by the Commission in 2010.

The Council invited its working bodies to prepare conclusions, based on the results of the debate, for adoption at the next Transport Council meeting in December.

The debate was guided by a presidency questionnaire relating to the main challenges identified by the Commission (aging, migration and internal mobility, environmental challenges, availability of energy resources, urbanisation and globalisation) and the main priorities highlighted in the communication (better integration of different modes of transport, technological innovation and user-friendliness).

Ministers mostly agreed to the broad principles contained in the communication. Issues which were emphasised during the debate related to the impact of the current economic and financial crisis, global climate change, a clearer description of priorities, greater consideration of regional differences and road safety. Ministers also expressed their views as to the most important fields of action, including better integration of all modes of transport, intelligent transport systems, a clear innovation strategy, financing of infrastructure and

internalisation of external costs for infrastructure use.

2. Ship passenger rights

In public deliberation, the Council reached a political agreement on a draft regulation designed to improve the rights of passengers when travelling by sea and inland waterway. On the basis of this agreement, the Council will prepare its common position that will be forwarded to the European Parliament for the second reading under the co-decision procedure.

Ministers agreed the following solutions for the outstanding issues:

- Scope of the draft regulation: ships with not more than 36 passengers should be excluded. Also excluded are ships with not more than three crew members, passenger services over a distance of less than 500 meters one way as well as excursion and sightseeing tours other than cruises. In addition, for 2 years from the date of application, the regulation should not apply to seagoing ships of less than 300 gross tons operated in domestic transport, provided the rights of passengers are adequately ensured under national law.
- Exemptions from carriers' assistance and compensation obligations in case of cancellation or delays:
- No compensation should be due if the passenger is aware of the cancellation or delay before the purchase of the ticket or if the cancellation or delay is caused by a fault of the passenger;
- If the cancellation or delay is caused by bad weather conditions or extraordinary circumstances, the compensation rules will not apply. However passengers will have the right to receive snacks, meals or

refreshments and accommodation in case of extraordinary circumstances, while in case of bad weather conditions the assistance will not include accommodation. Moreover, it was decided that the carrier may limit the cost of accommodation to € 120 per passenger.

The draft regulation lays down rules on non-discrimination, accessibility and assistance for passengers with disabilities or reduced mobility. It also contains provisions for all passengers, dealing with assistance, information and compensation in the event of cancellation or delay of their travel as well as with handling of complaints.

The Commission presented its proposal in December 2008. The European Parliament adopted its first-reading opinion in April 2009.

3. Reporting formalities for ships

In public deliberation, the Council took note of a progress report on a proposal for a directive aimed at simplifying the procedures and formalities to be fulfilled when ships arrive in or depart from EU ports.

Ministers of landlocked Member States intervened shortly to ask that the proposed directive should not apply to countries without maritime ports.

The Council instructed its preparatory bodies to continue the examination of this file, with a view to arriving at a rapid adoption of the proposal.

The proposed directive is to replace directive 2002/6/EC on the same subject. In particular, the Commission proposal provides for the harmonisation of deadlines for notifying entry into ports, the generalisation of electronic means of transmission for the formalities through SafeSeaNet, the designation of a single national authority by each member state for the reception of information, the simplification of the use of forms: the

international "FAL form" (established by the convention of the International Maritime Organisation on facilitation of international traffic) would not be required if the information requested is already required by EU legislation, and exemption for intra-Community operations from the requirement to transmit a FAL form.

The proposal is the first of a number of measures announced by the Commission in a communication from January 2009 with a view to creating a EU maritime transport space without barriers.

The adoption of the draft directive is subject to the co-decision procedure with the European Parliament. The Parliament has not yet started its examination of the text.

COMPETITION RULES

Extension of the Consortia Block Exemption Regulation welcomed

On 28 September, the European Commission adopted a new Block Exemption Regulation on liner shipping consortia, notably Commission Regulation 906/2009. This new Regulation revises the current Block Exemption Regulation 823/2000, which expires in April 2010.

As it was the case with the existing regulation, Regulation 906/2009 exempts certain cooperation agreements from the application of Article 81 (1) of the EC Treaty, notably those cooperation agreements that are established for the purpose of providing a joint service in transporting cargo (so-called "consortia"). However, Regulation 906/2009 includes some changes compared to Regulation 823/2000, notably:

- A reduction of the market share threshold from 35% to 30% above which companies do not qualify for automatic exemption under the Regulation.
- A clarification of the method of calculation of the market share threshold.

- An extension of the scope of the exemption to all cargo liner shipping services, whether containerised or not.
- A prolongation of the exit-clauses and lock-in periods, in case a member wants to withdraw from the consortium.

Regulation 906/2009 extends the current exemption for liner consortia for five more years, until 25 April 2015 and comes into force on 26 April 2010.

ECSA welcomes the extension of the Consortia Block Exemption Regulation for another five years.

COMMISSION COMMUNICATION ON A FUTURE TRANSPORT POLICY

ECSA Submission

The Communication is a follow up to the 2001 White Paper on Transport Policy, subsequently updated in 2006. ECSA sees this Communication as a key text laying the ground for the upcoming White Paper on transport policy for the next decennium (expected in 2010). ECSA also underlines its strong support for the Commission's Maritime Transport Strategy 2009-2018, which should remain the roadmap for the maritime sector at EU level in the next nine years.

Having duly studied the Communication ECSA appreciates that the Commission has recognised that transport is an essential component of the European economy.

The Communication also recognises that a liberal trading environment (i.e. market opening) has led to more efficiency. This is valid for intra EU transport as well as for global transport services. Particularly in periods of economic crisis, tendencies to introduce protectionist measures should be resisted by all means. For intra EU services enforcement of existing market opening legislation is essential.

ECSA is surprised that reference is made to the decoupling of transport growth to GDP growth that was mentioned in the

original 2001 White Paper and withdrawn with its review in 2006. The shipping industry wishes to reiterate that such a policy of delinking growth in transport from growth in trade is unrealistic and is conflicting with the Lisbon strategy. It would seriously hamper the competitive position of European industry and trade.

Further key points submitted by ECSA are:

- **Safety:** As mentioned in the Communication the EU has, for the maritime sector, one of the most advanced regulatory frameworks for safety and pollution prevention (lastly with the Maritime Safety Package III). This legislation must now be applied and controlled. The European Maritime Safety Agency (EMSA) can play an important role in this respect.
- **Security:** On container security and relevant technologies it is imperative that the EU takes into consideration the global aspect of the maritime trade and ensures a form of interoperability between the different systems. With regard to advance cargo declaration and the use of electronic summary declarations there is a need for realistic testing periods. It is furthermore important to ensure that the various systems introduced across the EU are interoperable.
- **Piracy:** ECSA commends the work done by EU-NAVFOR. However, it is clear that the piracy situation is fragile and that ongoing efforts are essential.
- **The environment:** Efforts are ongoing to further improve the environmental footprint of shipping. Amendments to MARPOL Annex VI were agreed in IMO in October 2008. In the process on the revision of the EU Sulphur Directive attention has been drawn to the serious risk of a modal shift from sea to land in the three ECAs (Emission Control Areas). Impact assessments are being made. On carbon emissions all eyes are now on the UN Conference taking place in Copenhagen in December

2009. It has been made clear that shipping as a global business needs a global solution and the adequate forum for this is the IMO.

- **Co-modality-Nodal-Points-Infrastructure:** In order to ensure its continued growth and increase co-modality, the promotion of short sea services should be further enhanced. This should be done by using and combining the most appropriate transport modes on all fronts e.g.: efficiency, environmental friendliness, and other external costs such as accidents, congestion and noise. The modal shift to shipping as the most sustainable transport mode is the logical consequence of such an approach. Though traffic in general has decreased with the present economic crisis, an extension of port capacity and hinterland connections is a basic factor to make the policy of co-modality a reality. The TEN-T should include such projects. In the process of further improving the efficiency of nodal points the application of the principles brought forward in the Commission Communication on a European Port Policy of October 2007 is overdue. The European Maritime Transport Space without Barriers and the Modernised Customs Code will be instrumental to alleviate burdensome and unnecessary administrative procedures and practices.
- **The Human Factor:** Attracting young people to maritime academies for a high quality education remains a priority for European shipping. This is to the benefit of the whole maritime cluster. For a global industry such as shipping services a global level playing field for its seafarers should be enhanced through the ratification and implementation of the Maritime Labour Convention of the ILO in particular.
- **The Competitiveness of the European Transport sector:** Enhancing the global leadership which Europe has in many fields of transport is a key factor in preserving

the overall competitiveness of the European economy. Maritime services are de facto operating on the global market and are faced with global competition. Therefore an appropriate operational framework creating a level playing field with global competitors is key.

The full text of the ECSA submission is available on the ECSA Web site <http://www.ecsa.be/publications/092.pdf>

TEN-T COORDINATORS PUBLISH THEIR ANNUAL REPORTS AND A COMMON POSITION PAPER ON THE REVIEW OF THE TEN-T

ECSA welcomes the report on Motorways of the Sea

On 7 October, the Trans-European Transport Coordinators published their annual reports on the Trans-European Transport (TEN-T) projects for which they have been specifically mandated.

The annual reports of 2009 sum up the work carried out over the year 2008-2009 as well as that over the period 2005-2009). The reports reflect the Coordinators' own perspectives and analyses and contain a series of proposals and recommendations to enable all stakeholders in the projects to take an active role as the projects move forward towards realisation.

In addition to their annual reports, the TEN-T Coordinators have also produced a common Position Paper that they have handed over to Vice-President Tajani. This common position paper aims at contributing to the debate on the review of the Trans-European Transport Networks and includes an assessment and recommendations for the forthcoming review exercise, based upon the Coordinators' experience with their specific projects.

The TEN-T Coordinator's report on project Nr. 21, which relates to Motorways of the Sea (MoS) and which has been prepared

by Mr Luis Valente de Oliveira, analyses the progress so far with regard to the set up of Motorways of the Sea in the European Union and summarises the views and ambitions on this projects as expressed by various stakeholders. The report makes some very precise recommendations for the future which are quoted hereunder:

- (1) Development of integrated port infrastructure (trade, procedures, movement of goods, information systems, superstructure, vehicles and operations).
- (2) Improved hinterland infrastructure connections, development of the missing links and value added links in the door to door transport chain integrating sea legs.
- (3) Deployment of intelligent infrastructure services (e.g. tracking and tracing), to better reconcile the shipper and its goods, increasing safety and security and allowing for a fully controlled just in time delivery system.
- (4) Promote activities and launch studies to better understand how to help the sector. Areas to be covered range from the identification of trade patterns within the internal European market (origin and destination matrix), to benchmarking the efficiency in transport chains and nodes and on how best to foster cooperation among ports and comodal actors to facilitate the deployment of innovative technologies.
- (5) Support to the articulation of ports and port activities (ranges, gateways, hub and spoke) exploiting know-how and comparative advantages, creating a favourable environment for the development of new business opportunities and services.
- (6) MoS will enormously benefit from improved education, training and cooperation efforts throughout the entire human element pillar in the area
- (7) Develop actions and information systems to integrate procedures and operations in a guichet unique (one stop shop) for the whole chain: foreland (shipper), feeder, port, shipping operator, port, feeder, hinterland (receiver). Clearly promote wherever and whenever possible the use of sea-river technologies, systems and services.
- (8) Support the launching of actions aimed at fostering research and technological development to develop ships and equipment with reduced emissions and increased safety and environmental friendliness as these measures will have a very positive impact on MoS
- (9) Better articulate the different funding frameworks, whilst respecting their specificity in order to avoid duplication and achieve critical mass for innovation and change. To facilitate access, a single information funding desk should be created.
- (10) In this context, update the TEN-T guidelines, integrating the lessons of the new practical experiences and benchmarking, thereby upgrading their capacity to meet the new demands.
- (11) Simplify bureaucracy where possible; facilitate the use of benchmarked solutions such as the "Eco bonus" scheme as a priority Marco Polo type of action.
- (12) Extend our reach to our neighbours and to Africa supporting the development of complementary efficient logistics chains in the Mediterranean and in the subsaharian regions.

ECSA welcomes the report of Mr Valente de Oliveira as a useful guide for the review of the TEN-T.

MARCO POLO PROGRAMME

The European Commission adopts new rules to broaden the scope of the Marco Polo Programme

On 9 October, the European Commission adopted new rules to broaden the scope of the Marco Polo Programme. The amendments include a general reduction

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of the minimum thresholds for eligible projects, with a special reduced threshold for projects aiming to shift road freight to inland waterways. These changes will facilitate access to projects presented by smaller companies in general and inland waterways operators in particular. In addition it will be easier for these companies to apply for funding since the existence of a consortium for the application is no longer required. Furthermore, the period going from the

day of application to the signature of the grant agreements has also been shortened, giving beneficiaries quicker feedback from the Commission. Finally, flexibility is added to the deadlines for completion of projects objectives and modal shift is extended to empty containers and transport vehicles if effectively taken out of the roads.

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