Commission prolongs the consortia block exemption regulation in maritime transport

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A consortium is a grouping of shipping lines which co-operate to provide joint maritime cargo transport services. Such co-operation usually allow shipping lines to rationalise their activities and achieve economies of scale, thus improving the productivity and quality of liner shipping services. Provided the consortia are faced with sufficient competition, those advantages benefit exporting firms, the customers of shipping lines. Therefore the consortia block exemption automatically covers consortia which have a market share of below 30% on any market on which they operate (or 35% if operated outside a liner conference). Consortia exceeding the market share limits would not necessarily be unlawful, but would have to be assessed as to their compatibility with competition rules, notably Article 81(3), on an individual basis.

The consortia block exemption regulation was first adopted in 1995 and has been renewed in 2000. In May 2004, the Commission published a consultation paper with a view to renewing the block exemption for another five years (1). Hence, on 20 April 2005 the Commission adopted Regulation (EC) No 611/2005 (2) amending the block exemption regulation for liner shipping consortia (3). The amending regulation prolongs the block exemption until 2010 and introduces some minor changes to two rather technical provisions.

The consortia block exemption is closely linked to the block exemption for liner shipping conferences (Council Regulation (EEC) No 4056/86 (4)).

In 2004, the Commission has published a White Paper (5) in which it proposes to consider repealing the block exemption for liner conferences. Due to the close links between the two block exemptions, the Commission believed that it is neither necessary nor appropriate to introduce substantial modifications to the consortia block exemption before the end of the legislative process concerning the conference block exemption.

The two amendments to the consortia block exemption regulation that have nevertheless been introduced by Regulation 611/2005 are not related to the review process of the conference block exemption. The amendments allow a consortium member to withdraw from a consortium agreement without financial penalty after an initial period of up to 24 months, an extension of 6 months compared to the current regime. In addition, this initial period now also applies where the parties to an existing agreement have agreed to make a substantial new investment in the maritime transport services offered by the consortium. Such an investment is considered substantial when it constitutes at least half of the total investment made by the consortium members. Finally, one of the basic conditions for the grant of exemption to a consortium, that is the existence of effective price competition within the consortium, has been amended: ‘Individual confidential contracts’ may now also be taken into consideration to demonstrate the existence of such competition.

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