

*Case No IV/M.1651 -
MAERSK / SEA-LAND*

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**REGULATION (EEC) No 4064/89
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 06/10/1999

*Also available in the CELEX database
Document No 399M1651*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 06.10.1999

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EEC) No 4064/89 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying party

Dear Sirs,

Subject: Case No IV/M. 1651 – MAERSK/SEA-LAND

Notification of 3 September 1999 pursuant to Article 4 of Council Regulation No 4064/89.

1. On 3 September 1999 the Commission received a notification concerning a transaction whereby the A.P. Møller Group will acquire the international container liner business of Sea-Land Service Inc. ("Sea-Land"). Maersk will also acquire certain of Sea-Land's related activities, including terminals, vessels and containers.
2. After examining the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) No 4064/89 and does not raise any serious doubts as to its compatibility with the common market and with the EEA Agreement.

I. THE PARTIES AND THE OPERATION

3. The A.P. Møller Group is active in container shipping (Maersk Line – “Maersk”), as well as in other areas, such as the operation of bulk carriers, tankers, supply vessels and drilling rigs. A.P. Møller’s activities also cover shipbuilding, container production, oil and gas exploration and production, terminal operations, freight forwarding and inland transportation.
4. Sea-Land, which hitherto belonged to the CSX Corporation, is a container shipping line operating a fleet of containerships serving ports worldwide. In addition to the provision of maritime transportation services, Sea-Land provides other services such as warehousing and distribution services, freight forwarding, logistic services and truckload transportation. Sea-Land also has interests in various terminals worldwide, including Algeciras and Bremerhaven, and has lease arrangements for a container terminal at Rotterdam.

II. CONCENTRATION

5. The transaction consists in the acquisition by the A.P. Møller Group of control of the international container liner business and related services of Sea-Land Service Inc. (“Sea-Land”), by purchase of shares and assets, and is a concentration within the meaning of article 3(1)(b) of the Merger Regulation.

III. COMMUNITY DIMENSION

6. The combined aggregate worldwide turnover of the undertakings concerned exceeded EUR 5 000 million (A.P. Møller: EUR [...] million; Sea-Land: EUR [...] million). The aggregate Community-wide turnover of each party exceeds EUR 250 million (A.P. Møller: EUR [...] million; Sea-Land: EUR [...] million)¹. They do not achieve more than two-thirds of their turnover in one and the same Member State. The operation therefore has a Community dimension.

IV. RELEVANT MARKETS

A. Relevant service markets

Containerised liner shipping services

7. In previous cases², the Commission has found that the relevant market is that for containerised liner shipping between a range of ports in either Northern Europe or the Mediterranean and a range of ports on another continent or in another region. A service between two ranges of ports is called a ‘trade’.
8. The notifying party identifies the market for containerised liner shipping services as the service market primarily affected by the operation. This is consistent with the service market definition adopted by the Commission in the above cases.

¹ The notifying party has included the revenues of Safmarine Container Line (SCL), acquired by the A.P. Møller Group in April 1999, in the figures provided.

² P&O/Royal Nedlloyd (IV/M.831), Maersk/Safmarine (IV/M.1474) and TACA (IV.35.134).

Sea transport services relating to intra-Europe shipping

9. The parties are also active on a number of short-sea container shipping routes within Europe, referred to as ‘intra-Europe shipping’. The services concerned consist of shipping containers from one European port to another, either as ‘direct hinterland traffic’ (traffic to or from a particular *hinterland* that is connected to the port of origin or the destination) or as ‘feeder traffic’ (transshipping containers from and to deep-sea ports). The notifying party argues that the relevant market includes other forms of transport, in particular road transport. In the present case, it is not necessary to determine whether the relevant product market includes other forms of transport. The Commission’s investigation has shown that even on the basis of a narrower market definition consisting of containerised liner shipping services on a particular route or bundle of routes, the notified operation will not create or strengthen a dominant position (cf. section V.B).

Terminal services

10. A.P. Møller also acquires certain landside activities operated by Sea-Land, in particular terminals. These terminals are partly used for captive purposes and partly provide services to other container lines, i.e. loading and unloading, storing, etc. (also referred to as stevedoring services). Services for container ships are different from services for ships carrying, for example, liquid bulk cargo, essentially because a different infrastructure (“superstructure”) is required.
11. The market for stevedoring services may be further sub-divided according to the size of the vessels which require handling, i.e. deep-sea vessels (operating between continents, more than 3000 TEUs³) or short-sea vessels (operating on shorter distances), given that different berthing and land-side equipment facilities are needed. However, the Commission’s investigation has shown that even on the basis of this narrower market definition, the notified operation will not create or strengthen a dominant position (cf. section V.C).

B. Geographic aspects

Containerised liner shipping services

12. In previous cases⁴, the Commission has found that container shipping to and from Northern Europe constitutes a distinct market from transport to and from the Mediterranean. On that basis, the parties’ container shipping activities overlap on the following trades:
- Northern Europe - North America
 - Mediterranean - North America
 - Northern Europe - Middle East
 - Mediterranean - Middle East
 - Northern Europe – Far East
 - Mediterranean – Far East

³ Twenty foot equivalent units.

⁴ P&O/Royal Nedlloyd (IV/M.831), Maersk/Safmarine (IV/M.1474) and TACA (IV/35.134).

13. With respect to the trades to North America, the notifying party submits that Canada, the US East Coast, the US Gulf Coast and the US West Coast should not be considered as separate markets. However, third parties have expressed the opinion that ports on the US East and West Coasts are largely not interchangeable when transport cost and time are considered. For the purpose of the present decision it is not necessary to decide this issue as the transaction will not create or strengthen a dominant position under either definition of the market.

Sea transport services relating to intra-Europe shipping

14. The parties have suggested that the market for intra-Europe container shipping is Europe-wide. The Commission has found that in this instance the exact definition of the relevant market(s) can be left open, as the merger will not lead to the creation or reinforcement of a dominant position under any alternative market definition (cf. section V. B).

Terminal services

15. Ports or groups of ports serve a particular hinterland or are used for transshipment to smaller ports. The geographic area they generally serve determines the geographic scope related to their services. Based on the Commission's conclusion in the P&O/Nedlloyd case (IV/M.831) that substitution between Northern European and Mediterranean ports does not take place to any considerable degree because of their different catchment areas, these two regions might be considered as separate markets for the provision of stevedoring services. Independent industry sources commonly make a distinction between Northern Europe, West-Mediterranean and the East-Mediterranean/Black Sea as the relevant geographic ranges⁵. In the present case, the operation would not lead to the creation or strengthening of a dominant position under either definition of the market. Therefore, the exact definition of the geographic market for container terminal (stevedoring) services can be left open.

C. Further markets

16. The notifying party has identified European *inland transportation* as a further relevant market, since both parties hold a share in the European Rail Shuttle, together with P&O Nedlloyd. The ERS operates rail shuttle services to and from Rotterdam to an area covering North, West, South and Central Europe. According to the notification, both parties are also provide limited *freight forwarding (including logistics)* services within Europe.

⁵ See for example Ocean Shipping Consultants – *The European Container Market – Prospects to 2008* (1997) Drewry Shipping Consultants identifies Southern Europe/Mediterranean/Black Sea as one range (see Drewry - *World Container Terminals*)

V. COMPETITIVE ASSESSMENT

A. Container shipping

A.1. World-wide position of Maersk/Sea-Land

17. The notified concentration will create the largest liner operator world-wide. However, a number of other large operators exist, such as Evergreen Marine Corporation, P&O Nedlloyd Container Line Ltd, Hanjin Shipping Co Ltd, COSCO Container Lines, Mediterranean Shipping Company, American President Lines, Mitsui-OSDK Lines and Nippon Usen Kaisha. The notifying party states that Maersk's and Sea-Land's combined share of the world's fleet capacity is approximately [...] and that the top 20 competitors control not more than about one half of the world's liner shipping market. This statement is consistent with information provided to the Commission by third parties.

A.2. Relevance of shipping conferences and consortia for the assessment

18. In previous decisions concerning the liner shipping market⁶, the Commission has taken into account the parties' participation in contractual arrangements, such as conferences and consortia, and the market positions of such conferences/consortia on the relevant trades. Conferences and consortia⁷ are arrangements between shipping lines that play an important role in the organisation of the liner shipping industry and restrict competition between their members, although not every carrier on a particular trade is a member of a conference or consortium and on some trades important carriers operate outside conferences and consortia. In its previous decisions, the Commission considered whether the notified concentration would strengthen the cohesion within an existing conference or consortium and would thus create or strengthen a collective dominant position.

19. The notifying party submits that the notified operation will not strengthen to any significant degree the cohesion within the relevant conferences or consortia. To the extent that Maersk and Sea-Land are members of conferences on each of the European trades on which they operate, they are members of the same conference. According to the notifying party, decision-making within conferences is nearly always based on one vote per member line regardless of the size of the line. Therefore, Maersk/Sea-Land's position and influence within conferences would not increase and would not result in the merged entity obtaining control of any conference. Moreover, the notifying party submits that

⁶ P&O/Royal Nedlloyd (IV/M.831), Maersk/Safmarine (IV/M.1474).

⁷ Liner conferences are defined as "a group of two or more vessel-operating carriers which provides international services for the carriage of cargo on a particular route or routes within specified geographical limits and which has an agreement or an arrangement, whatever its nature, within the framework of which they operate under uniform or common freight rates and any other agreed conditions with respect to the provision of liner services" (Council Regulation (EEC) No 4056/86, OJ L378 of 31 December 1986). Liner conferences have the effect of limiting competition amongst their members in respect of pricing, timetabling, frequency of service, ports called at, carrying capacity, and allocation of cargo and revenue.

Consortium agreements are "agreements between two or more vessel operating carriers which provide international liner shipping services exclusively for the carriage of cargo, chiefly by container, relating to a particular trade ... in order to rationalize their operations by means of technical, operational and/or commercial arrangements, with the exception of price fixing" (Council Regulation (EC) No 870/95, OJ L 89 of 21 April 1995). Consortium agreements may limit competition amongst the members of consortia by, for example, capacity planning, the operation of joint sailing timetables and determination of ports of call, and joint marketing structure.

Maersk and Sea-Land have already formed their own consortia in the form of vessel sharing agreements, without participation of other carriers, on most of the East-West trades. Exceptions are the Europe - North America routes (cf. section A.3)).

20. The notifying party also submits that Maersk and Sea-Land are not party to discussion agreements or stabilization agreements in any of the European trades on which both are active.

A.3 Position of the parties and relevant conferences/consortia in individual markets

Northern Europe – North America

21. Both Maersk and Sea-Land belong to the revised Trans-Atlantic Conference Agreement (TACA) which at present counts 8 members (ACL, OOCL, P&O Nedlloyd, Hapag-Lloyd, MSK, NYK, Maersk and Sea-Land). Sea-Land is a member of the VSA (Vessel Sharing Agreement) consortium together with P&O Nedlloyd and OOCL. The notifying party has provided the following market share figures for 1998⁸:

Total Market	Maersk	Sea-Land	Parties combined	Conferences	Competitors
2,930,000 TEUs	[5-10%]	[5-10%]	[15-20%]	TACA* [<50%] Consortia VSA* [25-35%]	Evergreen [5-10%] Hapaq L [5-10%] P&O [5-10%] Lykes [5-10%] MSC [<5 %] OOCL [<5 %]

* indicates the conferences to which the parties belong

22. The parties' combined market share has been confirmed by third parties and does not give rise to concerns about single dominance, taking into account the presence of sizeable competitors. This assessment does not change if the routes to the US East, Gulf or West Coast or Canada are considered as separate markets. The parties' combined market share did not exceed [20-25%] in any of these segments in 1998.

23. The combined market share of the present TACA members was [<50%] in 1998⁹. In its decision of 16 September 1998¹⁰, the Commission found that the members of the TACA occupied a collective dominant position on the Northern Europe – North America trade at least until 1996. Following that decision, the revised TACA agreement (TACA II) was notified to the Commission on 29 January 1999. TACA (II) explicitly authorises conference members to negotiate and enter into individual and confidential contracts with shippers. Moreover the regulatory scheme for liner shipping has been liberalised in the US pursuant to the US Ocean Shipping Reform Act 1998 (OSRA). According to the notifying party, the OSRA revised the statutory scheme in particular for service contracts. With respect to service contracts, carriers are no longer obliged to publish prices or offer the same contract terms to similarly situated shippers. Individual

⁸ Based on volumes transported.

⁹ The combined market share of TACA has been confirmed by third parties.

¹⁰ IV /35.134 - TACA

common carriers, even those that are members of a conference, may now enter into service contracts, as may shippers who are not members of shippers' organisations

24. It is not necessary to decide whether the above and other measures, if implemented, are sufficient to remove concerns about possible collective dominance. The Commission's inquiries have not produced evidence that the notified operation would strengthen a possible collective dominant position or, should such a position no longer exist, lead again to the creation of collective dominance.
25. Firstly, it would seem that the merged entity's influence on the TACA's formal decision making process will not be strengthened. According to the notifying party, decisions within the TACA normally require a simple majority. The institution and/or use of route-coding service and any modification of amendment to capacity regulation must be unanimous. Any decision to open or close any rate must be unanimous less one vote. Given that the merged entity will have only one vote, the notified operation will not strengthen the merged entity's voting power.
26. Secondly, the Commission has considered whether the merged entity's combined commercial weight within the TACA will increase the risk of parallel behaviour by the conference members. This could be the case, for example, if the combined entity were able to prevent other conference members from entering into individual service contracts. Customers' replies indicate that individual service contracting is practised on the Northern Europe – North America trade. The Commission's inquiries have not revealed any indication that the present operation will significantly affect the situation as regards service contracting.
27. Sea-Land but not Maersk is a member of the VSA consortium. Maersk has a slot exchange and slot sale agreement with the VSA consortium. The notifying party submits that the VSA consortium will be terminated in 2000 following withdrawal by P&O Nedlloyd and OOCL. This appears to exclude the concern that the present operation will strengthen this consortium long-term.

Mediterranean – North America

28. Maersk and Sea-Land are members of the United States South Europe Conference (USSEC), together with P&O Nedlloyd. Maersk and Sea-Land also have a vessel sharing agreement on this trade. Sea-Land slot charters to P&O Nedlloyd in the Mediterranean, using space out of its share under the agreement with Maersk. The notifying party has provided the following market share figures for 1998:

Total Market	Maersk	Sea-Land	Parties combined	Conferences	Competitors
970,000 TEUs	[5-10%]	[10-15%]	[20-25%]	USSEC* [25-30%]	ZIM [10-15 %] MSC [<10 %] COSCO [<10 %] Farell Line [<10%] Hapaq L [< 10 %] P&O° [< 10 %] Italia Line [<10 %]

* indicates the conferences to which the parties belong.

° indicates that the line belongs to the USSEC.

29. Neither the parties' market share, which was confirmed by third parties, nor the sum of their and P&O Nedlloyd's market share, do as such raise the concern of individual or

collective dominance on the Mediterranean – North America trade, given that significant competitors are present. The highest market share in any market segment was [...] with respect to the US Gulf Coast in 1998. However, a number of competitors remain active, amongst them three lines which each individually have market shares between [...].

30. The Commission’s inquiries have not revealed further circumstances which would indicate that the merged entity alone or jointly with P&O Nedlloyd might be dominant on this trade. The notifying party has pointed out that because the USSEC operates to the US, it is subject to the 1998 OSRA, which allows confidential service contracting (see above).

Northern Europe – Middle East

31. Maersk and Sea-Land belong to the IPBCC (the India Pakistan Bangladesh Ceylon Conference, operating between Europe and the Indian Sub-Continent). They also belong to the EMERA (the Europe Middle East Rate Agreement, operating between Northern Europe and the Arabian Persian Gulf - APG) and to the JSG (the Jeddah Service Group, operating between Northern Europe and Jeddah). Maersk and Sea-Land operate a joint service (the Maersk/Sea-Land Alliance) on the Northern Europe – Middle East trade. The notifying party has provided the following market share figures for 1998:

Total Market	Maersk	Sea-Land	Parties combined	Conferences	Competitors
960,000 TEUs	[10-15%]	[5-10%]	[20-25%]	IPBCC* [30-40%] EMERA* JSG*	United Arab Shipping° [10-15%] P&O° [10-15%] CMA° [<10%] Shipping Co. India [<10%] Hapag L° [<10%] MSC [<10%]

* indicates the conferences to which the parties belong
° indicates that the line belongs to the above conferences

32. The parties’ combined market share of [20-25%], although further strengthening Maersk’s position after the previous acquisition of Safmarine Container Lines (cf case IV/M.1474), does not raise concerns of individual dominance. It should be noted that some third parties have estimated the parties’ combined market share as being lower, i.e. between [...] and [...]. Competitors, in particular P&O Nedlloyd, United Arab Shipping Co and CMA Shipping Co, continue to hold significant market positions.
33. The above market share estimate for the IPBCC has been broadly confirmed by the Commission’s inquiries. P&O Nedlloyd, United Arab Shipping Co, CMA Shipping Co and Hapag Lloyd are also conference members. The EMERA and JSG operate eastbound only. The EMERA has a share of [...] on the routes to the Arabian Persian Gulf and the JSG a share of [...] on the route to Jeddah. However, their share of the total Northern Europe – Middle East trade is significantly lower and can be estimated as appr. [...] and [...] respectively.
34. On the basis of the notification and the Commission’s inquiries, there is no evidence that the notified merger of two of its members will strengthen the above conferences’ market position. Nor will the operation affect the voting structure within the conferences, as each conference member has one vote and decisions are taken either by simple or by two-thirds majority. The combined Maersk/Sea-Land entity will retain a

single vote. The fact that Maersk and Sea-Land have already been operating a joint service also indicates that the present operation's impact on competition in this trade will be limited.

35. It should also be noted that it is relatively easy for carriers operating Europe – Far East services to enter the market by way of transshipment (cf Commission decision of 7 May 1999 in case IV/M.1474). The notified operation will not affect this possibility.

Mediterranean - Middle East

36. The notifying party has provided the following market share figures for 1998:

Total Market	Maersk	Sea-Land	Parties combined	Conferences	Competitors
350,000 TEUs	[10-15%]	[5-10%]	[15-25%]	IPBCC*[15-20%]	United Arab Shipping [°] [<lt;15%] </lt;15%] Evergreen/Lloyd Triestino [°] [<lt;10%] </lt;10%] Messina [<lt;10%] </lt;10%] MSC [<lt;10%] </lt;10%] DSR-Senator [°] [<lt;10%] </lt;10%] Norasia [<lt;10%]< td=""> </lt;10%]<>

* indicates the conferences to which the parties belong

[°] indicates that the line belongs to the IPBCC

37. The parties' combined market share of [15-25%] is not indicative of a dominant position. Some third parties have estimated the parties' market share considerably lower, i.e. at [...]. It should furthermore be noted that on this trade some independent carriers are active, i.e. Messina, MSC and Norasia. With respect to the effects on the IPBCC, reference can be made to the above analysis on *Northern Europe – Middle East*.

Other trades

38. Maersk's and Sea-Land's combined market share does not exceed [...] on the Northern Europe – Far East trade and [...] on the Southern Europe – Far East trade.

A.4 Vertical aspects

39. The Commission has also considered whether the parties' increased vertical integration, resulting from the combination of their respective terminal operations (see below), might strengthen their position in the container shipping market. In particular, Maersk will increase its terminal capacity in Rotterdam, Bremerhaven (see below) and New York, which are important ports for the North Atlantic trades.
40. Third parties consider that the combined entity will be able to operate more efficiently because of the increased possibility to use own terminals, in particular on the Europe - North America trades. However, most replies to the Commission's inquiries suggest that sufficient terminal capacity will remain available to competitors. While the merged entity will probably gain an additional competitive advantage, there is no indication that it will be able to foreclose competitors or become dominant on the Europe – North America trades because of the competitive advantage gained.

B. Sea transport services relating to intra-Europe shipping

41. The parties' activities with respect to intra-Europe container shipping are limited. According to the notifying party, their overall combined share within Europe amounts to appr. [...]. A more detailed analysis has shown that the parties have few overlapping services (i.e. serving the same intra-Europe routes) and as far as they do, a number of competing shipping lines are active on those same routes. Therefore, the operation would not lead to the creation or strengthening of a dominant position as regards intra-Europe container shipping under any potential market definition.

C. Terminal services

42. Maersk is a significant terminal operator with 14 terminals world-wide. By acquiring Sea-Land, Maersk will also acquire Sea-Land's terminals in North America [... terminals), Europe [... terminals) and Asia [... terminals). These terminals are operated either on the basis of (co)ownership or on the basis of long-term lease contracts. In Europe, the stevedoring activities of Maersk take place in Algeciras (Spain) and Bremerhaven (Germany). In the Netherlands, Maersk will become the joint owner (with European Combined Terminals B.V. – ECT) of a terminal in Rotterdam. Sea-Land also has activities in Algeciras and Bremerhaven. In Rotterdam, it has a so-called dedicated facility, which is operated by the stevedoring company ECT. The terminals in question are used for the handling of own cargo but may also be used by third parties.
43. In Algeciras, Maersk has a container terminal concession through its Spanish subsidiary MESA. Sea-Land has a [...] interest in a stevedoring company called Terminales de Contenedores de Andalucía SA ('TCA'). Both companies jointly operate the main terminal in Algeciras through the joint venture MedCon UTE. Sea-Land also has a joint venture interest in the second, smaller terminal in Algeciras, Isla Verde. Sea-Land's interest will be acquired by Maersk. However, the merged entity's market share will not exceed [...] in the West-Mediterranean region, either for terminal services in general or more specifically for terminal services to deep-sea vessels. Furthermore, Algeciras is not the largest container port in the West-Mediterranean region, Gioia Tauro having a larger capacity, including for deep sea vessels. The above indicates that that a dominant position will not be created or reinforced.
44. In Bremerhaven, both Maersk and Sea-Land have a [...] interest in a joint-venture with the port company BLG Container GmbH & Co. BLG will continue to hold [...] in this joint venture. Hence, post-merger, the structure of joint control will remain (none of the parties, for example, has a casting vote). Furthermore, even prior to the merger the interests of Maersk and Sea-Land as regards the operation of the joint venture were common. Therefore, although the merger will increase the weight of Maersk in the joint venture, the operation will not significantly alter the operation of the BLG container terminal.
45. In Rotterdam, Maersk will have a [...] interest in a terminal that will be co-owned by the container terminal operator ECT. This terminal is planned to become operational in the year 2001 and will not give Maersk a dominant position in container handling, neither in the whole Northern European range, nor in the Rotterdam port. Sea-Land has a contract with ECT, under which ECT has reserved part of a terminal to serve Sea-Land in a preferential manner. Sea-Land neither owns nor leases the terminal, so that the capacity concerned cannot be attributed to Maersk post-merger. It is noted that Maersk may start to use its new terminal to handle previous Sea-Land traffic, but although this may lead to

withdrawing a considerable amount of traffic from ECT and therefore affect ECT's individual position, competition as such will not be significantly impeded by this transaction.

D. Inland transportation

46. The notifying party has informed the Commission that the present operation will not affect the corporate governance of the European Rail Shuttle (ERS), operated by the parties together with P&O Nedlloyd, as the parties will not gain control over the ERS. Competitors have access to similar services (in addition to being able to buy excess capacity from ERS). In Europe, the acquired Sea-Land business has no interests in other inland transportation operations except for an interest in the Trans-Siberia Express Service, CIS-Rail and Sea-Land Express, each of which operate in Russia. On this basis, there is no indication that the merger would raise competition concerns

E. Freight forwarding (including logistics)

47. A.P. Moeller and Sea-Land are both involved in worldwide logistics, A.P. Moeller through Mercantile and Sea-Land through Sea-Land Logistics. Both subsidiaries operate independently of the parties' liner activities in as much as they source their shipping services from a number of carriers. In Europe, Sea-Land Logistics has only one small operation with one warehousing facility in the Netherlands. The notifying party submits that the incremental market share in Europe is minimal and that the parties compete with major freight forwarders and logistics operators, including those owned by competing shipping lines. On that basis, the notified operation will not raise competition concerns.

VI. ANCILLARY RESTRICTIONS

48. Pursuant to Section 5.11 of the Purchase Agreement of 21 July 1999, the CSX Corporation agrees not to provide international containerised transportation services by sea vessel for international cargo for a period of five years from the closing date. Insofar as this non-compete clause is applied on the trades on which Sea-Land is currently active, the clause can be considered directly related and necessary to the implementation of the concentration for a period not exceeding three years from the closing date.
49. Pursuant to Section 5.15 of the Purchase Agreement the Seller (Sea-Land Services Inc.) shall be granted a 6-month license to use the "Sea-Land" name, a license to sub-license the "Sea-Land" name to certain retained entities and a perpetual license to use the "SL" name and logo for the retained businesses. If they were to be considered restrictive, these clauses can be considered directly related and necessary to the implementation of the concentration.

VII. CONCLUSION

50. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EEC) No 4064/89.

For the Commission,