



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR ENERGY AND TRANSPORT

DIRECTORATE G – Maritime transport, Galileo & Intelligent transport
Maritime transport & ports policy; maritime security

DISCUSSION PAPER

Subject: Draft fifth report on maritime cabotage

After the end of the transitional periods (1999 for the Mediterranean and 2004 for Greece), the Regulation No 3577/92¹ (hereunder referred to as the Regulation) has been fairly evenly implemented across the Community.

The Regulation applies the freedom to provide maritime cabotage services within any Member State to the Community shipowners operating vessels registered and flying the flag of a Member State, provided that those vessels comply with all conditions for carrying out cabotage in that Member State. It should be noted that while liberalising the cabotage services the Regulation contains provisions intended to play a moderating role in respect of crew and public services. In particular, it recognises specific needs of adequate and regular transport services to, from and between islands, by allowing introduction of public services. Furthermore, it allows the application of the host State legislation to manning conditions on vessels carrying out cabotage with islands and vessels smaller than 650 gt.

Pursuant to Article 10 of this Regulation the Commission has an obligation to submit a report on its implementation to the Council every two years. The last report, covering the period 1999-2000 was adopted in 2002.

The fifth report, this time covering a longer period (2001-2005) during which the cabotage market has been fully liberalised, is currently under preparation. The Commission wishes to take the opportunity of the preparation of this report and, before drafting the final conclusions, consult the maritime administrations of Member States and other interested parties, with a view to discussing the impact of the Regulation fifteen years after its entry into force. In particular, the Commission wishes to assess whether the Regulation fulfils its role, whether it needs supplementary interpretation or requires any other policy measures to be taken.

¹ Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage), OJ L 364, 12.12.1992, p.7.

FINDINGS OF THE DRAFT FIFTH REPORT

The following main findings of the draft fifth report have to be taken into account in assessing the cabotage market in the Community:

Opening to the competition

The cabotage market appears stabilised, both in passenger and cargo transport. However, recorded data indicate that the penetration by foreign ships into national cabotage market remains, with few exceptions, quasi non-existent².

When analysing this tendency, recorded already in the previous reports, we have to bear in mind that the cabotage market is very heterogeneous. It should be noted that this market might be divided into several local markets taking into account the specificities due to the geographical situation and demographic conditions of particular Member States.

Mainland cabotage versus island cabotage

The Regulation defines two categories of cabotage: "mainland cabotage" refers to carriage of passengers and goods by sea between ports in the mainland— in fact "national Short Sea Shipping"— and "island cabotage" refers to the carriage of passengers or goods by sea between the mainland and one or more islands as well as between islands.

In this context, cargo traffic between mainland ports within the same Member State is gradually decreasing, mainly as a result of competition from the terrestrial modes. This tendency does not occur in respect to traffic between mainland ports and overseas territories (island and others), where growth continues.

Cabotage transport of passengers between mainland ports rarely exists, except in a few cases during the tourist season. The transport of passengers between the mainland and islands maintains itself for short routes.

In contrast, the sector that shows most dynamism is the transport of passengers to/from and between islands.

Island cabotage

Two categories of lines may be distinguished within island cabotage: on the one hand lines operating on a commercial basis, financially viable where there is no need for state intervention, and on the other hand lines subsidised under public service contracts (PSC) or on which a public service obligation (PSO) is imposed.

² It should be noted that while there has been recorded a limited penetration of national cabotage markets by non-national service providers, capital flows between shipowning companies have taken place in recent years e.g. the case of Grimaldi/ Minoan. Given that these capital flows are covered by the principle of free movement of capital (and not the freedom to provide services) they are not included in the present analysis.

The opening of the cabotage market on the commercial routes has accelerated the modernisation of the fleets and contributed to improving the quality of services on offer.

Price of transport

The Regulation has often been cited as the reason behind the rise in passenger fares. An analysis note on this is attached in Annex 2. It can be summarised that the Regulation requires price liberalisation on the commercial routes with significant traffic throughout the year and effective competition between carriers, whereas in the absence of those conditions on the routes where private initiative is insufficient to ensure satisfactory price levels the Regulation allows introducing public service requirements in terms of passenger fares.

It has been reported to the Commission that in Greece since the liberalisation of the domestic market passenger fares have increased. However, the Commission has no data on the ticket price evolution in the cabotage services in other Member States.

Public Service Obligations and Public Service Contracts

Cabotage Regulation succeeded in providing a clear legal framework for PSO and PSC and as a consequence has contributed to achieving more transparency in their attribution. Most Member States successfully apply provisions of the Regulation in this respect.

Cabotage and Short Sea Shipping

Short Sea Shipping (SSS) is understood as maritime transport along the coasts of Europe (including island destinations). It can cover both international and national traffic (cabotage) as well as sea-river transportation by coastal vessels to and from ports in the hinterland³. The main focus of SSS is on intra-EU traffic (including also countries bordering the EU) and plays a key role in ensuring sustainable mobility as well as contributes to meeting other objectives, like alleviating congestion and environmental pressure⁴. This focus is evident through the measures taken to promote SSS⁵. Even though it can relate both to cargo and passenger transport, it is generally connected with the former. SSS through the concept of “Motorways of the Sea” was an integrated part of the Commission’s 2001 White Paper on European transport policy for 2010.

The cabotage market appears to be a small part of the SSS one as far as goods transport is concerned, being almost 20% of SSS, and 45% of SSS in the case of passenger transport.

Looking at the latest development of transport volumes, according to Eurostat, between 2004 and 2007 there was an 8% increase in the volume of goods transported by sea. For intra-EU27 the increase was almost 7%, while cabotage registered a slight reduction by 0.5%.

MAIN QUESTIONS

The scope of the consultation shall include the following issues:

³ European Short Sea Network, www.shortsea.info

⁴ Keep Europe Moving – sustainable mobility for our continent, COM(2006) 314 final.

⁵ Mid-Term Review of the Programme for the Promotion of Short Sea Shipping, COM(2006) 380 final

- Existing framework for cabotage services (Regulation No 3577/92 and Interpretative Communications COM(2003)595 and COM(2006)196)
- Market developments
- Employment and manning trends
- General comments/ difficulties encountered in application of Regulation by the stakeholders
- Areas of improvement
- Connection between cabotage and Short Sea Shipping
- Transport equivalent⁶
- Need for Geographic Information System depicting cabotage lines in Europe?
- Particularities of Ultra Peripheral Regions (RUP)

⁶ Transport equivalent: an approach assigning to the maritime cabotage service the same passenger fares as those applied in other modes of transport (road/rail) on comparable distances. Agreements between the State and the carriers might provide for allocations to carriers aimed at compensating the low tariffs used. This principle has until recently been used in France in respect to Corsica with a reference to SNCF (French national railway company). The transport equivalent has been analysed currently by Scotland and Greece.

Annex 1

List of stakeholders to consult:

- National maritime administrations
- Federations:

Federation	Category
ECSA - European Community Shipowners' Association	Shipowners
E.T.F.-Fédération Européenne des Travailleurs des Transports	Trade Unions
CRPM - Conference of Peripheral Maritime Regions	Peripheral Maritime Regions
ESIN - European Small Islands Network	Small islands
ESPO- European Sea Ports Organisation	Port authorities

- Other interested parties.

Annex 2

Liberalisation of fares in the maritime cabotage

It should be recalled that the transport services are covered by the provisions of Title V of the EC Treaty and their liberalisation requires introduction of a secondary legislation⁷. The purpose of the Regulation No 3577/92 is to abolish restrictions on the provision of maritime transport services on cabotage routes thereby eliminating another barrier towards the achievement of the internal market. Pursuant to the Regulation the freedom to provide these services within any EU Member State applies to the Community shipowners operating vessels registered and flying the flag of a Member State⁸, provided that those vessels comply with all conditions for carrying out cabotage in that Member State⁹.

The purpose of opening the domestic maritime markets to the Community shipowners is to improve the cabotage services through subjecting them to free competition. According to the economic theory the carriers competing on the open market compete also on the price element. This competition in principle leads to the increase of traffic and is likely to result in lowering of passenger fares. In the case that market forces alone are not sufficient to ensure adequate transport, also in terms of fares, the Regulation allows introducing moderating instruments in the form of public service requirements.

The Regulation leaves to Member States the choice of whether and to what extent public service should be provided. Under Article 4(1) of the Regulation Member States may conclude public service contracts or impose public service obligations in order to meet their needs for territorial cohesion with islands. In the framework of public service contracts, Member States may provide for several requirements including the fares, provided that those requirements are not tailored for a given operator. Along with public service contracts, Member States may impose public service obligations (Cf Analir judgment of 20 February 2001, C-205/99). These obligations are in general not as detailed as the ones of a public service contract, but may also include particular rates to be charged. It should be noted that the Member State may decide to set specific rates for certain routes and/or for certain categories of passengers (e.g. residents of islands, students, senior citizens).

⁷ See Articles 51.1 and 80.2 of the EC Treaty.

⁸ It is settled case-law that freedom to provide services requires not only the elimination of all discrimination on grounds of nationality against providers of services who are established in another Member State, but also the abolition of any restriction, even if it applies without distinction to national providers of services and to those of other Member States, which is liable to prohibit, impede or render less attractive the activities of a provider of services established in another Member State where he lawfully provides similar services (Cf Analir judgment of 20 February 2001, C-205/99).

⁹ This requirement was included to ensure that only the vessels allowed to carry cabotage in the Member State in which they are registered are entitled to provide cabotage in any other Member State (originally not all the vessels registered in the second registers were allowed to provide cabotage services).

In the application of the Regulation the Commission has required Member States to liberalise the fares on the commercial routes characterised by significant traffic throughout the year and where there is effective competition between carriers. Nonetheless, that does not imply that the Commission requires liberalisation of fares on all maritime cabotage routes. It should be recalled that on the routes where private initiative is insufficient to ensure satisfactory price levels the Regulation allows introducing public service requirements.