



EUROPEAN
TRANSPORT
WORKERS'
FEDERATION

ETF Tug sector position on Consortia
Block Exemption Regulation

[ETF Tug sector position on Consortia Block Exemption Regulation](#)

12008E101

Consolidated version of the Treaty on the Functioning of the European Union - PART THREE: UNION POLICIES AND INTERNAL ACTIONS - TITLE VII: COMMON RULES ON COMPETITION, TAXATION AND APPROXIMATION OF LAWS - Chapter 1: Rules on competition - Section 1: Rules applying to undertakings - Article 101 (ex Article 81 TEC)

Official Journal 115, 09/05/2008 P. 0088 - 0089

Article 101

(ex Article 81 TEC)

1. The following shall be prohibited as incompatible with the internal market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which:

- (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
- (b) limit or control production, markets, technical development, or investment;
- (c) share markets or sources of supply;
- (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or

according to commercial usage, have no connection with the subject of such contracts.

2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void.

3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:

- any agreement or category of agreements between undertakings,
- any decision or category of decisions by associations of undertakings,
- any concerted practice or category of concerted practices,

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

(a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;

(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

Article 101 of the **Treaty on the Functioning of the European Union** focusses solely on safeguarding free trade and free market.

This CBER in fact allows for some exceptions to the Article 101 of the TFEU – especially for the maritime sector where Maritime Alliances – and more specifically via the Vessel Sharing Agreement – are allowed to deviate from the above article 101.

Although we welcome very much the opportunity given to stakeholders to provide their position, we dare to underline that the time in which to do this is very limited. Also being a European Trade Union Federation, we speak on behalf of the entire workforce of the Tug sector, but we will but one single voice in the multitude of stakeholders that will speak up.

The Tug sector in Europe is a rather small sector, but nevertheless a very crucial one for the overall safety on main European waterways and in European ports. Ports and waterways are often situated in very densely populated areas.

ETF underlines that in the shipping sector more and more alliances are being established at the moment, although a real consolidation of the market is not yet in the making. We doubt that these Consortia will create more efficiency as they have as sole aim to increase their profits rates that at this moment already are sky rocketing.

The CBER actually stimulates big shipping alliances to conclude global contracts with Tug companies. But by doing so, the pressure put on these Tug operators is enormous. At the moment we witness global contracts being negotiated where the cost per move does not even cover the vessels' depreciation and fuel, let alone the crewing cost.

Since vessel depreciation and fuel are essential operational costs that cannot be influenced by the individual company nor by the Consortia, the only remaining factor to pressure is the human factor. Safety standards are constantly lowered aiming at further pressuring crew members' salaries and working conditions. Crew settings are forced downwards thus imposing huge stress on overall performance and safety of the crew, vessel and operations.

Only the major tug operators could withstand this race to the bottom the longest, but even they witnessed their overall business becoming financially unviable.

We have much difficulty in understanding the Maritime sectors' push for this kind of artificial cooperation as they undermine their own sustainability in the long run. At this time the sector faces massive challenges due to staff shortages. But one does not attract bees with vinegar, people need decent terms and conditions, as well as career prospects. Automation will become a reality one day, but before that happens, there will be a relative long transitional period in which the sector will have to fully rely on the skills and competencies of their staff in order to properly transition into the automated future. So, the multitude of experience of the sectors' human capital will become of paramount importance. This experience and expertise will not remain in the sector if terms and conditions are further artificially downgraded.

ETF insists that the European Commission installs standards in order to establish a level playing field for at least a fair competition. We refer to the M/S Ever Given (Evergreen shipping company) incident blocking the Suez Canal causing massive mayhem in the supply chain as vessels could not provide services around the globe on time. The only ones able to solve the massive blockage were the Tugboat crews with their exceptional skills and expertise. If the pressure on terms and conditions

continues at this rate, safety cannot be guaranteed and massive disruptions will occur more often. ETF wonders if Europe can afford to fundamentally undermine its supply chains.

ETF fully opposes the push for these Consortia block exemptions to become a reality in the Tug & Towage sector.

ETF remains available for more information should you so require.