

EUROPEAN TRANSPORT POLICY

CHALLENGES FOR FINNISH SHIPPING INDUSTRY

FINNISH MARITIME BACKGROUND 1.

LEGISLATION

- **Maritime Code 1994 based upon**
 - **Hague/Visby Rules ratification**
 - **ideas from Hamburg Rules**
 - **wide scope for freedom of contract**
- **no legislation concerning**
 - **multimodal transport**
 - **freight forwarding**
 - **terminals or stevedoring**
- **non-mandatory legislation concerning**
 - **sale of goods**
 - **cargo insurance**

FINNISH MARITIME BACKGROUND 2.

PRACTICAL ARRANGEMENTS

- uniformity in transport documents and conditions
 - North Sea Standard Conditions of Carriage based upon BIMCO's Combiconbill
- multimodal transports by shipowners since 1979
- lately less interest in multimodal (shipowners)
- no legal problems in multimodal transport
 - very few claims/disputes
 - no court cases since 1979

FINNISH MARITIME BACKGROUND 3.

INDUSTRY AGREEMENTS/CONTRACT TERMS

- Standard Shipping Terms 2008 (previous vers. 1996)
- volume contracts
- General Port Operating Conditions 2006
- NSAB 2000

CONCLUSIONS

- => strong willingness to resolve matters by agreement
- => terms drafted by one party generally reasonable and accepted

FINNISH MARITIME BACKGROUND 4.

FINNISH SHIPOWNER'S VIEW

- present legislation
 - simple and proper in its scope
 - allows freedom of contract
- freedom of contract used in a sensible way
- present multimodal liability regime simple and fair
- no compelling need to change
- if change then
 - freedom of contract should be widened
 - less new mandatory rules on business matters

IF CHANGE, WHAT REQUIRED

1. FRESH START SEPARATE FROM PRESENT REGIMES
2. SIMPLE TERMS UNDERSTANDABLE TO ANY OPERATOR
3. INSURABLE ON REASONABLE TERMS
4. VOLUNTARY ACCESSION
5. INCENTIVE TO USE

AVAILABLE ALTERNATIVES

1. **MAINTAIN STATUS QUO**
2. **ADOPT THE ROTTERDAM RULES**
3. **REGIME SUGGESTED BY ISIC 2005**
4. **VOLUNTARY FALL BACK REGIME FOR EUROPE**
5. **EUROPEAN TRANSPORT DOCUMENT**

ROTTERDAM RULES - REASONS NOT TO ADOPT

1. TECHNICAL

- too complicated texts with extensive cross referencing (HVR 3200, HR, 8400, MT 8514, NSSCC 4800, ISIC 2400 and Rotterdam Rules 17.000 words)
- no operator or lawyer other than a qualified expert understand
- cannot be properly translated into Finnish legislation

2. PRINCIPAL

- reduces present freedom of contract considerably
 - volume contracts
 - shipping terms
- structure of liability and burden of proof alien to Finnish law
- etc.

3. CONSEQUENCIES

- legal uncertainty increases dramatically
- friction costs will skyrocket

EUROPEAN REGIONAL SOLUTIONS

1. ISIC DRAFT REGIME

- Fresh new start separate from present regimes
- Simple in terms
- Opt-out character
- Uniform strict liability with high limits - insurance?
- Attractive model

2. VOLUNTARY FALL BACK REGIME

- Combine with ISIC regime

3. EUROPEAN TRANSPORT DOCUMENT

- good models exist already (BIMCO, FIATA etc.)

WHAT TO DO

1. NO ACTION REALLY NEEDED AS STATUS QUO ACCEPTABLE
2. DO NOT ADOPT ROTTERDAM RULES!
3. EU REGIME FOR MULTIMODAL TRANSPORT WITHIN EU
 - ISIC model as basis
 - non mandatory
 - think about incentives
4. GLOBAL SOLUTION BASED UPON EU MODEL?
5. ONE SINGLE INSTRUMENT FOR ALL MODES OF TRANSPORT?

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