

## THE CHINESE CURSE OF GREEK CABOTAGE<sup>1</sup>

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Folklore has it that an ancient Chinese curse is ‘may you live in interesting times’. Whether or not this is true, this statement accurately represents the situation in Greek coastal shipping these days.

On December 7, 1992, the EU passed Regulation 3577/92 (‘the Regulation’). Its full title is: “*Council Regulation (EEC) No 3577/92 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage).*”

Articles 1, 4 and 6 of the Regulation should be highlighted because of their importance to Greek coastal shipping. Article 1 gives freedom to provide maritime transport services within a Member State to all ships registered in, and flying the flag of a Member State, as of 1 January 1993. Article 6, however, grants deferrals (‘derogations’) from the implementation of the provisions of the regulation for certain countries. For reasons of socio-economic cohesion, the derogations for Greece were:

1. For cruise services, until 1 January 1995;
2. For transport of strategic goods (oil, oil products and drinking water), until 1 January 1997;
3. For regular passenger and ferry services, until 1 January 1999; and
4. For island cabotage and services by ships of less than 650 GRT, until 1 January 2004.

Article 4 provides that a Member State “may conclude public service contracts with or impose public service obligations as a condition for the provision of services on shipping companies participating in regular services to, from and between islands”. Such public service contracts shall be made on a non-discriminatory basis in respect of all Community ship owners. Taking Article 4 in its entirety, all possible protection was provided for the maintenance of the Government policy of ensuring the provision of year round services to the islands for reasons of both social justice and territorial integrity.

In plain English, and as far as coastal shipping is concerned, in December of 1992 the EU gave Greece ample time (in fact, 11 years) to take all necessary measures to prepare itself for coastal shipping deregulation. Then how is it possible, one may ask, that several months *after* that magic date, the situation looks so messy and nobody really knows for sure what the future holds for the sector? Consider for instance the following:

1. The Greek Ministry of Merchant Marine spent a considerable amount of time doing nothing visible, and only in the summer of 2000 it started procedures to produce

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- legislation conforming with the Regulation. The Greek Parliament approved Law 2932/01 'for the free provision of services in maritime cabotage' in the summer of 2001, about 8 ½ years after December 1992 and only 2 ½ years before January 2004.
2. Law 2932/01 tried to make up for the delay by stipulating the start of 'deregulation' earlier than January 2004 so as to avoid coincidence with the period of the 2004 Olympics and to provide space for corrective actions before 2004. The start was specified for 1 November 2002.
  3. There is widespread criticism by the local coastal shipping industry that Law 2932/01 is in fact *not* compatible with the Regulation at all, and on a number of key issues. The industry took its case with the European Commission and with the Greek Supreme Court and asked for key provisions of the law to be repealed.
  4. The European Commission found a number of incompatibilities between the Regulation and Law 2932/01, and asked Greece to state how these will be rectified. As of early May 2004, it is not yet clear what the official response of the Greek Government will be. It is thus not clear if Greece will avoid a European Court battle, which will happen if the Commission is not satisfied with the response.
  5. Throughout much of this period, the New Democracy party has been accusing the Pasok Government on practically everything that had to do with the new legislation, and promised 'real deregulation' if voted into office. But at least two months after the elections that swept it into power, the new Government has said and done very little on specifically how it plans to reform the sector.
  6. Whereas it was possible as early as 2003 to reserve and buy a ticket for the 2004 Olympics, as late as May 2004 it was impossible to reserve, let alone buy, a coastal shipping ticket for August 2004, as the reservation horizon for such tickets still cannot exceed one month. The reason for this is the continuing uncertainty as regards future schedules and fares, even though these are mandated by law to be published well in advance. Foreign tourists who want to combine their visit to the games with a trip to the islands and want to plan ahead are thus left with a void.

Among issues that have raised eyebrows with Commission officials, Law 2932/01 seems to blur the differentiation between 'free routes' and 'public service routes', by granting the Ministry the authority to impose public service obligations on the former as well as on the latter. Free routes are supposed to be those in which the ship owner has the complete freedom to define routes, schedules and fares, something that has existed long time ago on international routes such as between Greece and Italy. But such freedom does not exist in Law 2932/01.

Also, furor erupted among ship owners in November of 2002 when Minister Anomeritis, on the eve of deregulation, imposed a broad range of mandatory fare discounts on all routes. Mr. Anomeritis eventually promised that these discounts would be reimbursed to the lines by the Government, but as this did not happen, the ship owners refused to grant such discounts as of 1 January 2004. Interestingly enough, and even though the Ministerial decision imposing such discounts can be considered as 'Stalinist,' it has not yet been repealed by the new 'pro-deregulation' Government. As to the lines, they still refuse to

grant these discounts to their customers, but they have instituted a discount scheme of their own.

Another controversial issue concerns the phasing down of age limits to ro-ro ferries from 35 years to 30 years. This is a measure that has nothing to do with deregulation per se, but was included in Law 2932/01 anyway, in the aftermath of the *Express Samina* disaster in the fall of 2000.

Amid screams of protest from Mr. Papoutsis (Mr. Anomeritis's predecessor who drafted and passed the new law), the new Government has rushed to abolish RATHER, the independent regulatory authority created in order to address issues pertaining to violation of competition laws. Its duties would be assumed by the Competition Commission, a much broader body overseeing all sectors of the economy. The new Minister Mr. Kefalogiannis also alluded that the new age limits of ro-ro ferries are superfluous if international regulations such as the Stockholm agreement are enforced. Even though he stated that reinstating the previous age limits or abolishing them altogether is not his immediate priority, many opposition circles, including Mr. Papoutsis himself, interpreted this stance as a signal that age limits will be eventually repealed and the Government is caving in to the demands of the ship owners. In the words of an opposition newspaper, 'the rust buckets are coming back!'

What needs to be done? In previous work (refs [1,2,3]), this author and his colleagues had examined extensively the prospects of Greek coastal shipping vis-à-vis 2004 and had recommended, among other things, what the Ministry of Merchant Marine had to do, and when, in the preparations for the entry into force of the EU Regulation. It was stated that since 11 years were given for the preparations, the attitude of the EU would be rather unsympathetic if all is not ready by 2004. Among others, we had made the following recommendations on what was needed by the Ministry:

1. A clearly defined and thought out policy, announced before the end of 1996, setting out the parameters proposed for a competitive system for the post 2003 period;
2. A clear definition, before the end of 1998, of the fleet needed to maintain the public service operations and the arrangements proposed to secure the continued undertaking and profitability of these operations;
3. Agreed and clear figures, announced before the end of 2000, of the intended capacity of each port and its facilities and equipment in, say, the year 2003; capacity to be expressed in terms of the number and duration of the time slots which will be available during the operational hours of each day; and
4. The definition and announcement before the end of 2001 of the procedure which will be adopted in calling for bids from European and Greek operators for providing public interest and free market services, taking into account the announced competition policy.

As many as 10 years after these recommendations, it is clear that many of them (such as No. 1, 2 and 3), or even actions that would resemble them, were not followed. Some other actions (such as No. 4) were taken, but they were implemented in a way that often

reminisces the previous regime. In retrospect, it is clear that there was much unnecessary delay in planning ahead for a process that is non-trivial by any sense of the word. It is also fair to say that the overall difficulty of transforming the Byzantine, monopolistic system of the past to a modern, competitive system for the future was grossly underestimated.

It is conceivable that the European Parliament elections in June and the Olympic games in August will further delay taking any substantive measures, particularly those that are likely to rock the boat or will have some 'political cost' to the Government, such as the repeal of age limits or of mandatory discounts to various citizen groups. However, after the expiration of the 11-year long period to prepare for deregulation, it is absolutely clear that Greece has to act fast to resolve a broad range of problems in coastal shipping. Regretfully, Greece will have to do that with the Damocles sword of the European Court hanging above her head.

No doubt this will be very interesting, as the Chinese might say.

## References

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