

Shipping and Transatlantic Trade and Investment Partnership (TTIP)

ECSA position paper

Introduction

European shipowners advocate that shipping be included in the TTIP negotiations so as to provide legal certainty, address market access restrictions, optimise the transportation of cargo and reap the benefits of increased waterborne transport.

1. ECSA's main priority is the inclusion of international maritime transport in TTIP

- TTIP should crystallise the current liberalised international maritime transport market in a binding agreement

International trade and international maritime transport are closely interlinked. Hence, we strongly advocate that TTIP explicitly address international maritime transport services. A trade agreement that would not cover the enabler of international trade that is maritime transport, would be a missed opportunity.

In practice EU shipowners can enjoy the largely liberalised international maritime transport market in the US, the same being also true for US owners in the EU.

However, this is a situation that does not result from any form of international or bilateral legal commitment and as such is reversible.

Therefore, ECSA calls for a TTIP that includes international maritime transport and acknowledges basic principles such as:

- the right to have unrestricted access to the international maritime markets and trades;
- the right for vessels from both parties to access the ports;
- receiving - once in port - equal treatment with regard to port services;
- the right for EU companies to carry out auxiliary maritime services;
- the possibility to establish wholly owned subsidiary offices;
- moving personnel across the Atlantic Ocean to work in the branches or head offices without unnecessary restrictive procedures.

While *de facto* both continents share these principles of open markets for international maritime transport, TTIP finally offers the opportunity to legally anchor them. In this way it will offer legal certainty and predictability to EU and US operators.

We stress that while this might sound a rather uncontroversial and evident commitment to make for the EU, the US has so far been very reluctant to make a similar commitment in the framework of international and bilateral trade discussions.

In that respect TTIP will not only benefit the US, but it will also become an example for other parts of the world where we see strong trends of protectionism in shipping. The EU and US should inspire other free trade agreements and ideally a global agreement on liberalisation of services.

- TTIP should prevent new market access restrictions

There are currently several US laws that limit market access for EU shipping companies, including the reservation of the carriage of certain cargoes to US flagged vessels in the foreign trade. These cargo restrictions range from limitations on transportation of U.S. military supplies material and equipment, humanitarian agricultural food aid to commercial export cargoes financed by the Export-Import Bank of the United States.

Moreover, US export control laws restrict international maritime transport services.

On top of the already existing restrictions, there are indications that the US might be considering further measures, such as the development of a general programme to promote the export of LNG on U.S.-flagged ships.

We believe that such restrictive practices are not in line with free trade principles. Therefore the EU and US should commit in TTIP not to create new market access restrictions for each other's maritime operators. In that spirit and considering the free access that US operators enjoy in the EU, the US should consider ways of being more flexible on existing restrictions to the benefit of EU operators.

2. TTIP should allow EU operators to access some specific maritime market segments where we see a win-win for both the US and the EU

Besides our first and main priority as described above, we would very much welcome any liberalisation that goes beyond the currently enjoyed open markets. Ideally, EU operators should have unrestricted access to all US maritime segments, as US operators largely do in the EU. However a more realistic approach led us to identify four areas where we see a potential win-win situation for both the US and EU.

- Feeder services and international relay

International cargoes should be able to be freely transported until they reach their final destination, keeping their 'international' status until delivered. Currently the Merchant Marine Act, also known as the Jones Act of 1920 does not allow standalone feeder services i.e. the transportation of international cargo by a bespoke and dedicated foreign feeder vessel. It also does not allow the practice of 'international relay', whereby the pre- and/or onward transportation of international cargo is done by another foreign vessel engaged in international trade.

By allowing EU operators in the feeder and relay market, the US could stand to make considerable cost reductions by optimising vessel and port calls, making savings on road transport and increase environmental benefits resulting from less road congestion and less energy consumption. Today, a container volume equivalent to approximately 14% of total US TEU import/export volumes is unnecessarily moved by more expensive land transport (PwC 2015).

- Handling empty containers in US ports

Bilateral agreements between the US and most Member States allow the transportation of empty containers between US ports. However, the procedures are cumbersome and the rules collide with contemporary business practice of vessel sharing agreements. Through TTIP EU operators would like to be allowed to transport empty containers in an unrestricted matter.

- Offshore and dredging services

A very rigid interpretation of the Jones Act prevents offshore service vessels to engage in a number of activities. EU operators provide a large part of the highly specialised service vessels needed for the offshore industry and the transportation of energy products. This is a fast developing market segment where European companies offer the most advanced technologies.

A more open regime for the offshore energy services market in the US will bring benefits such as lowering costs related to offshore energy extraction, promoting industrial innovation and maintaining the competitiveness of the domestic offshore service providers. To illustrate this, we refer to the fact that European companies have far advanced Anchor Handling Tug Supply (AHTS) Vessels that are designed to transport and install big suction pipes. US oil companies are keen to work with the EU offshore service companies because of their outstanding expertise. However, given the fact that the 'transportation' of the pipes falls under the Jones Act, this cannot be done by the EU AHTS and a separate Jones Act qualified vessel must be contracted for this part of the assignment, after which the European vessels take over and assist in the installation itself.

The environmental benefits of the offshore wind energy sector are well known. However the US is unable to exploit them at this point in time due to the Jones Act-related limitations. If the US offshore wind industry is to develop in line with US Department of Energy plans, there appear to be only two viable options:

- Waivers for European operators from the Jones Act
- A significant vessel building subsidy programme which would offset the US yard construction costs that are higher in comparison to the EU construction costs. However, even with such a subsidy programme there would still be additional costs associated with the use of US vessels e.g. lack of experienced wind installation crew. In addition it would likely cause further delays on the roll-out of offshore wind. (PwC 2015)

With regard to dredging activities, we fully support the position of the European Dredging Association. Opening up this market segment for EU operators will help US ports develop faster and materialise their ambitions to attract larger vessels once the Panama Canal expansion has been completed.

- Waivers for EU controlled vessels when no US vessels are available

EU shipowners would like to be granted waivers more easily and timely to EU-controlled vessels if there is no reasonable US alternative. For example in case of:

- exceptional circumstances for business contingencies (strike, severe weather or other major incidents),
- to support migration of road traffic to environmentally friendly alternatives which help reduce congestion (for instance I-95),
- shipment of yachts by means of semi-submersible ships.

Procedures today could be simplified for EU operators and requirements could be interpreted in a more flexible way.

3. TTIP should address some administrative and security related issues that hamper maritime transport services

Cumbersome US taxation and administrative procedures, security rules applying to seafarers in the port that make it almost impossible to go on shore for rest and recreational purposes, and other procedures of this kind must be reviewed as they hinder the services and render the seafaring job less attractive. We furthermore encourage dialogue on environmental and safety standards regarding vessels, because different standards or application hinders the smooth flow of goods.

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The European Community Shipowners' Associations (ECSA), formed in 1965, comprises the national shipowners' associations of the EU and Norway. ECSA aims at promoting the interests of European shipping so that industry can best serve European and international trade and commerce in a competitive and free business environment, to the benefit of both shippers and consumers. The European Economic Area maintains its very prominent position with a controlled fleet of 40% of the global commercial fleet.