

Coalition stands ground in EU pollution dispute

Justin Stares Brussels - Thursday 22 November 2007

THE maritime coalition behind attempts to overturn the European Union ship-source pollution directive has defended its intentions, underlining that members have nothing against new legislation for combating pollution, writes Justin Stares in Brussels.

In a statement released after this week's ruling on its legal challenge, the coalition, which comprises tanker owners' group Intertanko, dry cargo shipowners' group Intercargo, the Greek Shipping Co-operation Committee, Lloyd's Register and the International Salvage Union, said that it is simply seeking to ensure the industry remains governed on a global, rather than a regional, level.

"It is important to emphasise that the coalition claimants are not attempting to obstruct the development of the law with respect to combating marine pollution, still less to ensure any kind of freedom to pollute," the coalition said in a statement.

"They are responsible bodies in a major industry which are committed to the maintenance of proper standards for the prevention of marine pollution.

"Their concern is that for an industry which, by its nature, operates throughout the oceans of the world, those standards have to be established on a global, not a unilateral or regional, basis and that international law is upheld."

An advocate-general from the European Court of Justice ruled on Tuesday that there was no justification for invalidating the directive on the grounds that it contravenes international law. The full court is expected to rule next year.

The coalition claimed the advocate-general, Juliane Kokott, supported some of its arguments. "In her detailed opinion, Advocate-General Kokott has supported the coalition's argument that outside territorial seas the community has no power to apply laws of its own which go beyond Marpol," it said.

"She has also agreed that the directive was clearly intended to do this, as it prescribes 'serious negligence' as an additional test of liability.

"However, she has suggested that the directive would not be invalid if the term 'serious negligence' is interpreted restrictively, to mean no more than the Marpol test of recklessness.

"She has also proposed this narrow interpretation should not apply in the territorial sea, where she considers the community is not bound by Marpol, and where she recommends 'serious negligence' should be given a broader meaning."

The ship-source pollution directive opens the door to penalties, including imprisonment following accidental pollution, for any member of a ship's crew.

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