

EU forced into rethink of sanctions for polluters

Justin Stares - Thursday 25 October 2007

THE European Court of Justice has thrown out a list of criminal sanctions designed to reinforce the controversial ship-source pollution directive.

The decision by the Luxembourg court to annul the ship-source pollution framework decision is a victory for the European commission over the European council of ministers, and is not expected to influence the fight against the directive itself.

Judges ruled that the framework decision, which obliges governments to introduce “effective, dissuasive and proportionate” sanctions for those who have contravened the directive, was not taken according to the correct legal basis.

Ministers acted illegally in bypassing the commission and the European parliament, the court decided.

While the framework decision, which indicates minimum lengths of imprisonment for certain types of pollution offence, is now not valid, the principle of imprisonment following an accidental spill — the crux of the industry ire — still stands.

Following the judgement the commission is expected to resubmit a new proposal on its own terms, a move one lawyer called “the same baby with a different name”.

Separately, the court is being asked to examine whether the ship-source pollution directive is compatible with international law. An advocate general is due to make an initial ruling on November 20.

Article from Lloyd's List:

www.lloydslist.com/art/1191760931837

Published: 25/10/2007 GMT

© 2007 Informa plc. All rights Reserved. Lloyd's is the registered trademark of the Society incorporated by the Lloyd's Act 1871 by the name of Lloyd's

This article is copyright Informa plc. and is reproduced with permission. Reproduction, retrieval, copying or transmission of this article is not permitted without the publisher's prior consent. Informa plc. does not guarantee the accuracy of the information contained in this article nor does it accept responsibility for errors or omissions or their consequences.