

# 13 September 2007: Coal handling in the Havre port

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## **The Conseil de la concurrence penalizes the Havre port and two harbour companies to € 2.8 M for having implemented several anticompetitive practices**

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Following a referral by Sogema (Société générale maritime), the Conseil de la concurrence penalizes the Havre port authority, the CIPHA (Compagnie industrielle des pondéreux du Havre) and the SHGT (Société havraise de gestion et de transport) to a total of 2 805 000 euros.

### **The Havre port authority abusively used its dominant position in applying to Sogema a price twice superior to the one applied to the CIPHA**

The Conseil has established that the port authority, a public institution managing harbour infrastructures, had applied different prices to the use of its public unloading equipment in the MTV terminal, depending on whether the dock work was managed by the CIPHA, terminal concessionary for the storage and by its subcontractors such as the SHGT or on the contrary by its competitors such as Sogema.

Such a discrimination, based on the status of the company and not on the effective use of equipment, cannot be justified by the objective to make the storage infrastructures managed by CIPHA more attractive, fact which does not depend on the company chosen.

These practices are serious since they are implemented by a public operator in charge of a public service mission, the infrastructures of which are essential to

enable companies to unload ships.

### **The CIPHA abused its dominant position in selling its customers tied offers combining storage and dock work**

The CIPHA, which holds a dominant position on the coal storage market on the Seine low valley, used its position to distort competition on the related market for dock work.

The de facto tied offers - combining storage and dock work services- offered by the company, had the effect to evict Sogema from the dock work market, since the company had to pay twice the price paid by the CIPHA and its subcontractors.

### **The CIPHA and the SHGT agreed to prevent Sogema to enter the dock work market**

These two companies agreed on anticompetitive clauses, which were included in several draft contracts between the CIPHA and Capcol, for the unloading of coal intended for electric power stations on the MTV terminal.

The agreement, the aim of which was to lead Sogema to renounce its request to extend its own storage infrastructures in exchange for its temporary participation in the handling of EDF coal unloaded in the terminal, led to evict Sogema from the market. The latter had refused the clause which concerned it and therefore could only offer Capcol competitive dock work prices. Capcol then chose the CIPHA and its subcontractor SHGT to unload coal from the MV/Manna ship in November 2000 and thus avoid to pay the dock work on a public price basis, much superior to the price negotiated and applied to the CIPHA for the use of the equipment.

### **The penalties**

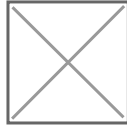
The Conseil considered that the practices were serious and had created a real damage to the economy. The penalties break down as follows :

- Havre Port authority : €2, 600, 000 ;

- CIPHA : €150, 000 ;
- SHGT : €55, 000.

The penalties are accompanied by a publication injunction in an issue of « Paris-Normandie » and in the newspaper « L'Antenne ».

**> Decision 07-D-28 of 13 September 2007, relative to practices implemented by the Havre port authority, the CIPHA and the SHGT**



**> See decision of the Paris Court of Appeal (5th November 2008)**