

# **STRATEGIC GOALS AND RECOMMENDATIONS FOR THE EU'S MARITIME TRANSPORT POLICY UNTIL 2018**

## **COMMENTS BY THE INTERANTIONAL CHAMBER OF SHIPPING AND THE INTERNATIONAL SHIPPING FEDERATION**

### **INTRODUCTION**

These comments are made on behalf of the International Chamber of Shipping (ICS) and the International Shipping Federation (ISF). ICS is the principal international trade association for the shipping industry, and ISF is the leading international employer's organisation for shipowners.

ICS and ISF represent all sectors and trades, and about 75% of the world's merchant tonnage. ICS and ISF membership comprises national shipowners' associations from some 36 countries, including members of the European Community Shipowners' Associations (ECSA).

It is emphasised that ICS and ISF fully support the very positive comments already made by ECSA. However, these additional comments attempt to provide an international perspective on some of those issues covered by the Strategy which are of direct relevance to the global shipping industry.

### **GENERAL**

The recognition given by the Commission (in its communication of 21 January 2009) to the economic importance of international shipping and the vital necessity of a global regulatory framework is very welcome, particularly with regard to support for the development of a package of measures at IMO to reduce shipping's CO<sub>2</sub> emissions and for the implementation by Member States of the ILO Maritime Labour Convention. The commitment of the Commission to free trade principles and the incorporation of maritime services into the hoped for WTO agreement is also very welcome, as is the concept of a 'European Maritime Space Without Barriers' in so far as it may improve customs and facilitation procedures.

In addition, ICS and ISF acknowledge the recognition given by the European Commission to the importance of quality shipping, maintaining competence in key maritime professions, the promotion of careers at sea and supporting maritime research.

(ICS and ISF also wish to recall that they have welcomed the political agreement between the various EU institutions for the adoption of the Third European

Maritime Safety Package, intended to address matters ranging from flag and port state enforcement to accident prevention and liability. The EU institutions have addressed most of the major issues raised by ICS and ISF on behalf of international operators, and the package should genuinely help further improve maritime safety in Europe.)

To reiterate, the great majority of the Strategy is welcome and enjoys the support of the international industry. The following remarks therefore only concern those points in the Strategy about which the international shipping industry has questions. However, these remarks should **not** be construed as criticism of the overall Strategy which is generally viewed very positively.

Nevertheless, one particular issue on which we do have continuing concern is the proposal on *“formalising the EU co-ordination mechanism and granting formal observer status, if not full membership, to the EU”* at IMO.

## **DETAILED REMARKS**

### **II European Shipping in Globalised Markets**

#### ***Quality shipping - page 3***

While the desire of the Commission to promote European industry is legitimate, we do not agree that the relocation of shipping head offices ‘overseas’ would have the effect of *‘undermining the EU’s efforts to ensure quality shipping around the world’*. This would suggest an unreasonable presumption that companies located in the EU are automatically of higher quality than those located elsewhere.

#### ***Competition rules - page 4***

ICS has welcomed the adoption by the European Commission of its new Block Exemption Regulation revising the current exemption for shipping consortia from the EC Treaty's ban on restrictive business practices. It is important to stress the benefits of these arrangements and our hope that they will be permitted to continue after the current Block Exemption expires in 2015.

It is stated that *“the Commission will take the lead to promote alignment of substantive competition laws globally”*. In the opinion of ICS, following the prohibition of liner conferences, in October 2008, it is in fact the EU which is now out of alignment with the tried and tested maritime competition law regimes that apply in other countries around the world, and which are supported by the international shipping industry. The industry was of course unsuccessful in persuading the Commission of the advantages of Conferences. But it is regrettable that shipping lines trading to Europe must respond to the economic downturn without the benefit of the particular form of co-operation which

Conferences provide. However, they continue to exist elsewhere, and it is interesting that, in view of the downturn, the US Federal Maritime Commission has indicated it has no immediate plans to review the US Ocean Shipping Reform Act.

#### ***Flag State rights - page 4***

In the remarks concerning the balance between rights and responsibilities of flag, port and coastal states, it is stated that “*the principle of the ‘genuine link’ as set out in UNCLOS should be a key instrument ... to support sustainable development goals*”. The international industry would be grateful for clarification of what might be intended. Should there be any future intention to do so, we believe the Commission should think very carefully before proposing any adjustment of the current balance between flag state and coastal state rights. Other coastal states around the world could potentially use any new entitlement to override current flag state rights for motives unconnected with safety and environmental protection, especially where evolving geo-political circumstances may lead to new perspectives.

### **III Human Resources, Seamanship and Maritime Know How**

#### ***Maritime certificates of excellence - page 6***

We note the intention of “*establishing ‘maritime certificates of excellence’...that may well go further than STCW requirements*”. From an international perspective, it is vital that the training and certification of EU seafarers continues to be compatible, and conducted in accordance, with the IMO STCW Convention.

#### ***Cadets to be taken on board - page 6***

Thought might be given to increasing the flexibility allowed by Member States for the on board training component required to qualify as an EU officer to be conducted on a ship registered in a different country (including third countries) to that where the shore based training takes place and where the STCW certificate will be issued. This might help to overcome the shortage of training berths that exists in some EU Member States. ISF has produced international On Board Training Record Books (which meet IMO STCW requirements) to help facilitate this, and which have been approved by many EU States and third countries.

#### ***Labour conditions – page 6***

We note the absence of any reference to promoting ratification of the ILO Seafarers’ Identity Documents Convention (ILO 185). As well as addressing the security concerns of port states, wide ratification of the Convention should materially assist the welfare of seafarers who are increasingly deprived of shore leave in certain countries.

#### **IV Quality Shipping as a Key Competitive Advantage**

##### ***European environmental management system for maritime transport – page 9***

It is assumed that any EMS-ET that is developed will be fully compatible with the IMO ISM Code which also exists to deliver ‘continuous improvement’ of environmental performance. If, as suggested, financial reward schemes are developed for ‘greener’ shipping, it will be important to ensure that third country ships are also entitled to participate (to avoid being placed at an unfair competitive disadvantage) and that such schemes are compatible with environmental standards agreed by IMO and the principle of ‘no more favourable treatment’ embodied in the MARPOL Convention.

##### ***Maritime transport safety – page 9***

We are unaware of any plans for a major expansion of the Suez Canal (other than those to extend the permitted draft to 66 feet at the end of 2009) but in any case question if this would necessarily involve significantly “*bigger risks*”.

#### **V Working Together on the International Scene**

##### ***Recognition and visibility of the EU within IMO- page 15***

The Commission proposes “*formalising the EU co-ordination mechanism and granting formal observer status, if not full membership, to the EU*” at IMO.

The longstanding ‘gentleman’s agreement’ between the Commission and Member States has acknowledged the advantages of allowing Member States to pursue independent positions at IMO. In the interest of maintaining the quality of technical decision making at IMO, the industry does not believe that increasing the status of the EU at IMO will actually contribute to the improvement of this institution or its impact on issues such as safety and environmental protection.

The 27 EU Member States already enjoy substantial influence at IMO, since the majority of EU States are traditional maritime countries with considerable expertise within their maritime administrations, which they are able to utilise and communicate articulately during international regulatory discussions.

IMO has a complex specialist committee structure which normally seeks to develop consensus across the international community rather than resorting to votes or imposing the will of the majority. The spectrum of technical expertise available to the 27 EU IMO Members means that the different emphasis they can bring to particular issues in turn means that they are actually far more influential

in contributing to an international consensus than would be the case if they were to speak with a single EU voice.

ICS and ISF fear that excessive co-ordination of EU Member States' views at IMO - even falling short of full EU membership - would be to 'politicise' discussions on complex safety and environmental issues which are best decided on the basis of informed technical and scientific arguments.

When the EU decides to co-ordinate the votes of EU Member States, the result can be to undermine the well known 'IMO spirit' of consensus. Many third countries, including those with large fleets, might then feel they no longer have strong 'ownership' of what is decided at IMO, with the result that international agreements may be less likely to be ratified after adoption or implemented on a truly global basis.

At a practical level, the relative speed with which IMO is able to develop and amend new regulations and recommendations requires the imposition of strict deadlines for the submission of comments on proposals made by other IMO Members. This can sometimes mean that governments may only have a month or so in which to comment on complex technical issues. If there is a requirement for EU States to have comments co-ordinated and approved in Brussels before they are submitted to IMO, this is likely to mean that IMO discussions may be deprived of valuable input from individual EU States, which may have a negative impact on the quality of the debate in committee. At a different level, the same problem would apply with regard to the contributions of EU States in working groups established during IMO Committee meetings and in specialist intersessional Correspondence Groups that are established between IMO meetings on particular issues.

While there is always room for improvement, IMO has actually proved to be a model of efficiency compared to similar intergovernmental regulatory organisations, and the vast majority of the regulations which it adopts are applied on a genuinely global basis with the full support of governments and industry.

The Commission and Member States should think very carefully about the pursuit of objectives which could do very serious damage to the long term authority and effectiveness of IMO, which is so vital for maintaining a safe and efficient shipping industry.

***Better mechanism for rapid ratification of IMO Conventions at world level – page 15***

The industry is confused by the extremely radical suggestion of examining "replacing ratification by flag by ratification based on the fleet as defined by the country of residence". As well as being seemingly incompatible with current understandings about the concept of national sovereignty, this would seem to

entail a complete revision of UNCLOS and the IMO Convention, and would be very unlikely to be acceptable to either EU Member States or third countries that belong to IMO.

## **VI Exploiting the Full Potential of Short Sea Shipping and Sea Transport for Business and Services in Europe**

### ***European maritime space without barriers – page 16***

The concept of promoting the efficiency of intra-EU trade and short sea shipping through improved customs and facilitation procedures is supported by the global industry, assuming such measures are compatible with WCO and IMO FAL requirements.

## **VII Europe Should be the World Leader in Maritime Research and Innovation**

This is a legitimate aspiration, but as international organisations we have no detailed comments.

## **VIII Conclusion**

To reiterate, the Commission is to be applauded for its efforts in affording due recognition to the vital importance of shipping, and for developing a comprehensive strategy to promote the future development of the industry.

ICS and ISF hope that the above comments are helpful as the Strategy is developed and look forward to participating in any formal consultations that may be arranged as the Strategy is progressed.

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