



***Economic and Social Committee
of the European Communities***



***Maritimes affairs:
Point of view of the Economic
and Social Committee***

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FOREWORD

The European Union is made up of many maritime nations, indeed the European Union is a maritime bloc highly dependent on sea shipping. The sea is a link between EU Member States - not a barrier - and between them and the rest of the world.

In these circumstances it is a paradox that the EU's share of world shipping is declining whereas it ought to be on the increase.

The Economic and Social Committee has called for positive measures to help correct this situation and has been disappointed by the results. This brochure, published to coincide with the Lisbon World Fair which has as its theme the maritime legacy of Portugal, Europe and the world at large, sets out the views of the economic and social interest groups represented in the Economic and Social Committee on some of the principle issues at stake. It hopes that the publication will increase knowledge and understanding of these issues and help lead to more vigorous EU policies in this key domain.

Tom Jenkins
Chairman



OPINION
of the
Economic and Social Committee
on the
Communication from the Commission to the Council,
the European Parliament,
the Economic and Social Committee and
the Committee of the Regions :
Towards a new shipbuilding policy

Rapporteur: John Simpson (United Kingdom - Various Interests' Group)

On 6 October 1997 the European Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the *Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: Towards a new shipbuilding policy*

(COM(97) 470 final)

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 February 1998. The rapporteur was **Mr Simpson**.

At its 352nd plenary session (meeting of 25 February 1998) the Economic and Social Committee adopted the following opinion by 80 votes to one with two abstentions:

1. Preliminary comments

1.1 For many years, shipbuilders within the European Union have faced intense competition for new shipbuilding orders. Shipbuilding capacity has been increased, particularly in South Korea. Because of the nature of the competition, often perceived to be based on injurious pricing practices, shipbuilders in the Union have been permitted to receive State Aid within ceilings set under the terms of various shipbuilding directives of which the most recent was the Seventh Council Directive¹.

1.2 Late in 1996, the Seventh Directive was renewed and extended to be effective until the end of 1997. This extension had the support of the Economic and Social Committee (ESC)². Then, in April 1997, an agreement in principle was made that would extend this provision until the end of 1998³.

1 OJ No. L 351 of 31 December 1994.

2 OJ No. C 30 of 30 January 1997.

3 COM(97) 469 final.

1.3 The main provision of the Seventh Directive is that shipbuilders may receive, from their national authorities, operating aid for shipbuilding and ship conversions (but not ship repair) up to a maximum of 9 percent (4.5 percent for smaller vessels and conversions) of the contract price. This level of assistance has been progressively reduced from a ceiling of 28 percent which was established in 1987. In the six year period from 1990 to 1995 (inclusive) a total of ECU 8.3 bn. of State Aid to shipbuilding was notified to the Commission. Part of this aid, ECU 3.5 bn, was allocated to support the restructuring of firms in the industry. Operating aid totalled ECU 4.8 bn.

1.4 Since 1994 there has been an expectation that the OECD Agreement "respecting normal competitive conditions in the commercial shipbuilding and repair industry", which was completed in December 1994, would secure a new regime in which all the main shipbuilding countries could cooperate. This agreement would have required the removal of most forms of state aid and, in parallel, would have introduced procedures designed to challenge any instances of injurious pricing. This agreement has not been ratified by the government of the United States and has not been implemented.

1.5 The present Commission communication is a response to the lack of progress on implementing the OECD Agreement. The need for alternative actions was anticipated in the earlier ESC opinion⁴. The ESC wishes to re-emphasize its continuing hope that the OECD Agreement might still be ratified by the United States administration thus allowing a more comprehensive arrangement to be implemented.

1.6 The Commission has presented proposals which provide that the extended Seventh Directive would lapse when the OECD Agreement enters into force as it would if the new Community regime is adopted.

2. Trends in the shipbuilding industry

2.1 Shipbuilding has, for at least two decades, been a difficult industry within which to operate profitably in the EU. Depressed demand, expanded building capacity in the Far East, and predatory pricing, have created very difficult trading conditions.

2.2 In the last twenty years, shipbuilding production in the EU has fallen by over 40 percent. In 1976, EU countries produced 27 percent of the world output, measured in "compensated gross tonnage". In 1986, this had fallen to 23 percent of a much reduced total, and in 1996 it had fallen again to 21 percent in a significantly increased global market. Production in Korea rose from just over one percent of world output in 1976 to 22 percent in 1996.

2.3 In the eight years, 1988 to 1996, world shipbuilding output has begun to recover from the large fall in the previous decade. World output, although still below the levels reached in the mid-1970's, has nearly doubled. Production within the EU has increased only by just over 50 percent, but is still not up to the levels of the early 1980's.

2.4 Employment in building new ships in the EU totalled 65,600 in 1996. This contrasts with 96,100 in 1986, and 208,800 in 1975. This large reduction in direct employment has also meant a big reduction in indirect employment of even larger numbers of people in the industries which supply shipbuilders and in other sectors. The pattern of employ-

4 see point 4.3 of CES 1085/96, OJ No. C 30 of 30 January 1997.

ment from 1988 to 1996 offers tentative evidence to suggest that employment numbers have nearly stabilized.

2.5 The Commission forecasts that, partly because of the need to replace older vessels, demand for new ships will remain at this higher level for the next few years before it falls again. Capacity is not adequately used and is still increasing so that in 2000 production will use not more than 70 percent of the available capacity.

2.6 Since the Commission Communication was written, currency fluctuations in the Far East have been dramatic. In particular, the devaluation of the "won" in Korea will have serious implications for a number of sectors, particularly shipbuilding. This adds a new dimension to the prospects for the industry which cannot be fully assessed at present (January 1998) and may require some reassessment of the conclusions reached by the Commission.

3. Commission proposals

3.1 The aim of the Commission is that, during the next five years, from the end of 1998, shipbuilding policies should facilitate the improvement of the competitiveness of the industry. A new regulation would be adopted for five years, until the end of 2003, which should allow sufficient time for the new provisions to generate a structural change in shipbuilding and see evidence of a stronger competitive industry.

3.2 At the end of that period, shipbuilding would be subject to the same rules as all other industries. Shipbuilding in the EU is being challenged to improve its competitive position in the world market to the point where viability is established and employment can be maintained.

3.3 A number of areas of "best practices" which would improve productivity, relative to competitors, have been identified by the Commission. These include:

- a. strategic planning, focusing on ship types with growing demand;
- b. structural changes, including consolidation of yards and closures of non-profitable ones;
- c. formation of strategic alliances between yards;
- d. better integration of ship owners and equipment manufacturers into production processes;
- e. purchasing policies, including maximizing the benefits of subcontracting;
- f. closer collaboration with other industries for innovation and technology transfer;
- g. aggressive pro-active marketing;
- h. more effective use of R&D in design of prototypes;
- i. upgrading of production facilities;
- j. investment in improving the quality and use of human resources.

3.4 In the application of these practices, the Commission proposes, as part of a new regulation which will be effective until 2003, that:

- grant aid on contracts to build ships should end from 1 January 2001;

- a series of measures designed to enhance productivity and competitiveness should be codified as a basis for bringing this industry into a similar competitive regime to other industries in the EU.

The detailed proposals are that:

- the permission to grant operating aid should end on 31 December 2000 (provided that the OECD Agreement has not been brought into force before that date. The OECD Agreement would have a broadly similar effect);
- export credits for ships should continue to be allowed under the 1981 OECD Understanding but subject to possible up-dating as envisaged in the 1994 OECD Understanding which is not yet in force and would allow not only export credit but also credit terms for ships for the home market;
- contract related aid granted as development assistance to developing countries should continue to be permitted;
- aid to finance the closure costs of structural adjustments, including social measures to mitigate the consequences of total or partial closure, should continue to be permitted;
- aid for restructuring a shipbuilding enterprise should be allowed on the same basis as the general Community guidelines for such aid in other sectors but with the strict proviso applying the "one time/last time" principle for financial restructuring;
- investment aid granted under regional aid schemes should be allowed provided the project is to improve the productivity of existing installations;
- investment aid for innovation would be allowed provided that the project relates to innovative products and processes that are not currently used by other EU operators in shipbuilding;
- aid for R & D should continue to be allowed on the conditions laid down in the Community framework;
- aid for environmental protection on Community guidelines should be allowed.

4. General comments

4.1 Basic theme

4.1.1 The basic theme of the Commission communication is that, with transitional assistance for five years, from 1998 to 2003, the shipbuilding industry in the European Union should, as a result of the actions of individual enterprises, overcome its structural disadvantages and be able to compete on world markets. As a caveat, the Commission acknowledges that this would also be subject to the existence, especially from non-EU competitors, of fair trading conditions on a global scale.

4.1.2 The ESC endorses this objective. Continuing efforts to create fair trading conditions will be needed. As a consequence, the ESC recommends that further decisions on shipbuilding should be made based on regular assessments of progress towards the end of this five-year period.

4.1.3 Of course, the competitiveness of shipbuilding in the EU varies from yard to yard and between different types of shipbuilding. There are, it is acknowledged, examples of highly competitive builders in certain market segments. However, in general, the industry

still has difficulty in competing against other builders, some of whose pricing regimes are regarded as predatory.

4.2 Motives for a policy change

4.2.1 The Commission has recommended the ending of approval for operating aid for shipbuilding. The motivation is complex. Part of the motivation seems to be a concern that the present operating aid, financed by national governments, has not been accompanied by the desired level of restructuring in the industry. A further consideration is the lack of any strong incentive in the scheme to improve competitiveness. The ESC agrees with, and supports, this conclusion reached by the Commission.

4.2.2 Although some parts of the industry have become internationally competitive, the communication does not argue that the competitive position of the whole industry is now strong enough to justify this withdrawal. Indeed, it argues that State aid policy needs to be refocused to promote and underpin efforts to improve competitiveness. This leads into support for investment in innovation and R & D.

4.2.3 The case to remove operating aids can be made both because (i) it is now the only sector of manufacturing with this scale of direct aid and (ii) the Commission questions whether the expenditure represents a cost-effective use of public funds which may distort intra-EU competition as well as partially offsetting the disadvantages relative to non-EU competitors.

4.2.4 The ESC would be reluctant to support the removal of operating aid if the prospects for competitive success were considered too low and if the alternative measures do not offer an equivalent effect. However, the long-term aim should continue to be an industry which can compete with other world shipbuilders.

4.2.5 The Commission should avoid any measures which could result in an international 'subsidy race' and should continue its endeavours to control, and ultimately phase out, subsidies to shipbuilding through an overall agreement within the philosophy of the OECD Agreement. This should be established as a basic principle in order to avoid the building of vessels for which there is no economic justification and where the consequences may be to unfairly distort activity in the shipbuilding sector and seriously damage the economics of the shipping industry.

4.3 Competitiveness

4.3.1 The ESC is concerned to consider whether the adverse factors which have justified an approved but diminishing level of operating aid, have now been reduced to the point where competitive viability can reasonably be expected.

4.3.2 In earlier years the Commission has undertaken work to calculate a justifiable common maximum aid ceiling which was based on an estimate of the difference between the costs of the more competitive Community shipbuilders and the prices being quoted by international competitors. This work was used in 1995 to justify the setting of the current 9 percent ceiling.

4.3.3 The last cost-price comparative study was undertaken in 1996-7. This Commission study is not quoted in the Communication but is understood to have suggested that the competitive cost-price gap for certain types of ships had actually widened. No reliable forecasts for the next decade are practicable. However, the trends in market share do not suggest that the relative position has improved significantly. In addition there is now the added uncertainty of the effects of currency devaluations on the cost differences

with producers in the Far East, which may make for more fundamental changes in the financial elements of competitiveness.

4.3.4 The Commission does note that "many EU yards still lack competitiveness, (and) in particular lag behind their major Far East competitors in terms of productivity". Also, it concludes that the market is likely to become even more competitive with total demand starting to soften in the next decade. These are not reassuring conclusions on which to justify the withdrawal of operating aid. The competitive position of EU yards varies between yards and especially for different types of ships. The ESC recognizes that, within the shipbuilding sector, the more successful EU yards will be likely to specialize in those vessels where expertise and skill inputs give some comparative advantage.

4.3.5 The ESC therefore would suggest that a further comparison to establish the relative competitive position of the main producers should be undertaken before a date for the removal of operating aid is decided. In particular, the Committee has reservations about the productivity comparisons quoted in the Commission communication since it is not clear that these have been corrected to allow for differences in the annual average working hours of shipbuilding employees in each country. This would affect a better understanding of the nature and scale of competitive differences.

4.3.6 The Commission should consider whether there is any evidence of continuing market distortion caused by injurious pricing from competitors. The ESC welcomes the assurance that at the end of 1999 (one year before the deadline) the Commission will monitor the market situation and, if anti-competitive practices are established, will consider introducing appropriate measures. This assurance would be more convincing if there was a commitment to introduce appropriate measures rather than "consider" the possibility!

4.4 Ship repair operations

4.4.1 Although the Commission communication is not as specific as might be wished, the ESC assumes that, consistent with the draft preamble to the Regulation, the revised policies and types of assistance for shipbuilders will extend to allow the same principles to apply to investment and restructuring in ship repair and conversion activities. The Commission has confirmed that this is the intention. The ESC would foresee difficulties if the scope of the new regulation was not broadened to cover critical aspects of ship repair activities and welcomes this more logical approach to the range of shipbuilding, ship conversion and ship repair activities.

4.4.2 Including ship repair within the scope of the new Regulation attracts the possible criticism that it widens the range of activities which qualify for assistance. However, the ESC accepts that, in the new framework of policy measures, to artificially divide investment and technology activities separating (for example) ship conversion from ship repair may lead to other distortions within the structure of the shipbuilding industry.

4.5 The wider links with shipping services, ship owners and ship repair operations

4.5.1 Shipbuilding is a critical component in a spectrum of activities which contribute to the movement of people and freight by sea, lake and river. In this way, a competitive shipbuilding industry has an important part to play in the overall economic performance of the EU.

4.5.2 Some of the actions affecting other linked sectors of the economic chain have implications for shipbuilding. For example, policies which encourage the elimination of sub-standard ships and persuade ship owners to purchase new ships are critically important in determining new orders. If these policies include constraints which encourage the plac-

ing of new orders with European yards, through preferential taxation, finance guarantees or other fiscal measures, this can affect EU yards. However, such policies should take into account the existing Guidelines on State Aids to shipping. Policies to encourage the use of maritime transport, including the increasing emphasis on the development of short sea shipping (partly on environmental grounds) also have a potential to impact on the ship building industry.

4.5.3 Policies on ship safety standards may also be a significant influence. The introduction of more stringent specifications for different types of ship may be, first, a safety feature but, second, can influence replacement rates and the volume of business available to repair and conversion yards.

4.5.4 The ESC is aware that these linkages are of critical importance in the development of overall maritime policies and has participated each year in the consultative meetings of the Maritime Industries Forum.

4.5.5 The ESC commends the efforts of the Commission to create a consistent and mutually reinforcing set of maritime policies ranging from the promotion of research and innovation, encouraging industry wide cooperation and, more recently, encouraging the development of short sea shipping as a contribution to wider problems of freight movement around the Community and in a wider context.

5. Specific comments

5.1 Capacity rationalization

5.1.1 The Commission knows of 103 shipbuilding companies within the EU operating in 1997. The biggest five represent 36 percent of European output. This is a much lower level of concentration than Korea, where the biggest five account for 99 percent, and Japan, where they hold 44 percent. Fragmentation, the lack of economies of scale, differences in work methods, and the absence of large "series orders" all contribute to lower productivity in European yards.

5.1.2 The case for capacity rationalization is not only a search for economies of scale by concentrating work load. Some yards in niche markets can be competitive simply because of the degree of specialization and this is not always a function of the size of the yard or enterprise.

5.1.3 An additional factor affecting capacity utilization is the reduction in the demand for naval vessels within countries of the EU. This also has possibly adverse implications for the availability and transfer of technology and innovative processes from one sector to the other.

5.1.4 These elements point to the logic of further efforts to increase productivity and rationalize capacity.

5.2 Export Credits

5.2.1 The Commission has drawn attention to the changes envisaged in the 1994 Understanding on Export Credits which has not yet been implemented. The revised understanding would up-date the 1981 agreement and forms one component of the OECD Agreement on the elimination of State aid.

5.2.2 The Commission sees the revisions as more closely reflecting market realities. The principal changes are, first, the introduction of the use of a Commercial Interest Reference Rate (CIRR) which is, in effect, an unsubsidized interest rate and, second, an extended peri-

od of officially supported guarantees, from 8.5 to 12 years, bringing ships into line with the terms permitted for large commercial aircraft.

5.3 Contract aid for orders for developing countries

5.3.1 Aid for orders from developing countries has not been subject to the present rules on the ceiling for operating aid to yards. The Commission proposes to allow this to continue.

5.3.2 There are possible distortions arising from this exemption. First, governments might be tempted to use these orders to place work in specified yards and thus avoid competitive bidding within the EU. The Commission is aware of these potential distortions and is acting to open up the possibility of competitive bids from other yards within the EU. Second, such orders might allow vessels to be used for a developing country in a manner which displaces other normal competitive shipping business.

5.3.3 The ESC is persuaded that a special provision of this type should be continued. The ESC also welcomes the assurance that the rules will be amended to open such contracts to competitive bidding from different yards in the EU and that monitoring procedures should ensure that there is no abuse of this concession.

5.3.4 Opening such contracts to bidding from different Member States does raise a difficult problem if the national governments offer different levels of aid to yards in their country. The ESC suggests that this issue should be clarified before the new regulation is introduced.

5.4 Closure aid

5.4.1 Assistance with the costs of closure, total or partial, is allowed under the present directive. The Commission proposes that this aid, including the social costs of readjustment for former employees, should continue to be permitted. The ESC welcomes this provision.

5.4.2 In a change in the application of this provision, the Commission proposes that where closure aid is paid, instead of there being a rule that the facilities must remain closed for five years together with a requirement for Commission approval for reopening in a further five years, the scheme should, in future, require that the facilities should not return to shipbuilding for a period of ten years and the prospect of a review after five years should be removed. The ESC accepts the logic of this change.

5.5 Restructuring aid

5.5.1 There are no detailed criteria for assessing restructuring aid in the Seventh Directive.

5.5.2 Since a component of improving the productivity and competitiveness of the shipbuilding industry will inevitably include the restructuring of some enterprises, the Commission is proposing a formal statement further defining the scope of potential restructuring aid. The basic principle is that shipbuilding enterprises should have the same rules as apply generally within the Community. Whether to allow capital injections, debt write-offs, subsidized loans or rescue aid, the proposal is to have strict rules using the "one time/last time" principle backed up by assessment and monitoring of viability.

5.5.3 To qualify for restructuring aid, evidence must be available of the extent of capacity reductions which will follow. In a sensible change the Commission suggests that the determination of the capacity reduction should not be calculated on the notional capacity to be closed but, instead, the actual level of production in that yard in the preceding five years.

5.5.4 The ESC supports both the clarification of the scope for restructuring aid and the method to determine the amount of capacity to be removed.

5.6 Investment aid

5.6.1 As a critical component of the restructuring and strengthening of the shipbuilding sector, the Commission proposes that shipbuilders should be eligible for several types of investment aid. This includes regional investment aids for modernizing and upgrading facilities in disadvantaged regions as well as investment aid for innovation with the restriction that the innovation should be defined as bringing into use products or processes that are not currently used commercially by other EU shipbuilding operators. The ESC notes that investment aid, linked to competitive improvements, is not necessarily constrained by the search for capacity reductions in a modernized yard, although the overall thrust of Commission policy still needs to take account of surplus capacity within Member States.

5.6.2 Care must naturally be taken to ensure that investment aids, including regional aid, are not used to rescue ailing shipyards and one requirement must therefore be that those firms which receive investment aid are profitmaking or are assessed to be able to become profitmaking as a result of the new investment.

5.6.3 One of the most acute problems facing the shipbuilding industry worldwide, and hence also in the EU, is the substantial overcapacity. An effective EU policy must therefore consider how the EU can help in solving this problem. Current proposals offer no immediate action to curb overcapacity but the Commission should be urged to put forward suitable proposals on this matter. In the proposal at issue, care must be taken to ensure that the EU's own aid does not aggravate the problems of world overcapacity.

5.6.4 Aid for R&D and aid for environmental protection are to be permitted in terms similar to those available for other sectors in the Community.

5.6.5 The ESC acknowledges that these differing investment aids may usefully encourage the improvement in the competitive position of the firms in the industry. Since the new regulation will make these aids subject, potentially, to a five-year limit, or possibly a review after five years, the ESC expects that an assessment of their impact and effectiveness will be prepared before the end of the period so that an informed judgement can be made about the merits of continuing each element after 2003. The Committee would hope that, in particular, the Commission will assess whether any of the changes show distortions which are not consistent with the evolution of an EU-wide competitive industry.

5.7 The overall impact of the new regulation

5.7.1 Whilst operating aid can be granted for contracts signed before the end of 2000, and may be claimed in the following three-year period, and the industry will be encouraged to invest and innovate using the other provisions, the ESC has a concern that the consequence of the changes will be to increase the level of official expenditure on shipbuilding. The Commission has pointed to the limited commitment to completely new types of funding and estimates that the State aid bill should not increase significantly, even for a short period. The Committee believes that the effect of the changes should be to reduce the level of aid payments.

5.7.2 The ESC therefore calls for the regulation to include a provision specifying that total annual aid - operating, regional and other investment aids - to individual shipyards may not exceed a ceiling of 9% of turnover averaged over any three-year period.

5.7.3 The ESC notes that State aids to shipbuilding, in particular, operating aid linked with the contract of the ship, are not clearly defined. In certain instances, this lack of clear cut definition may lead to confusion with the State aids to shipping and to cumulative

application of the above two categories of aids. It, therefore, suggests that this issue be clarified in the proposed Regulation.

5.7.4 An important feature of the new regime for shipbuilding is that the Commission should monitor the impact of the new arrangements and, in particular, the impact of the different types of support which will be available.

5.7.5 **Monitoring and transparency**

5.7.5.1 The Commission mentions the need to ensure that aid be paid in accordance with the guidelines laid down by the Council and proposes that monitoring be carried out in the form of notification by the Member States to the Commission. It is not envisaged to give the Commission any independent responsibility for procuring information from aid recipients, local authorities or others. In the ESC's view, the Commission should have both the right and duty in co-operation with national governments to undertake on-the-spot checks of production, accounts, etc. so as to ensure that the above guidelines are observed.

5.7.5.2 On earlier occasions, in connection with the restructuring of certain shipyards, the Commission has been empowered to monitor compliance with the relevant guidelines. It should receive corresponding powers in respect of all forms of aid referred to in the regulation.

6. **Human resources**

6.1 The ESC noted that the proposed regulation makes no specific reference to the training needs of the people employed in the shipbuilding industry. Enhanced skill levels will be an important component of the drive to improved productivity and competitiveness. The expectation of the ESC is that the Commission will be prepared to use its influence and resources to encourage appropriate skill development by the firms and training agencies in each Member State.

7. **Conclusions**

7.1 The ESC has, in its earlier Opinion, endorsed the objectives which were agreed in the proposed OECD Agreement on shipbuilding. The failure by the United States to ratify that Agreement is regretted. Whilst the Committee would still wish to see the OECD Agreement ratified, the proposed new Regulation has, in principle, the support of the ESC as it seeks to encourage the development of a stronger and competitive EU shipbuilding industry.

7.2 The ESC commends the efforts of the Commission to create a consistent and mutually reinforcing set of maritime policies ranging from the promotion of research and innovation, encouraging industry-wide cooperation and, more recently, encouraging the development of short sea shipping as a contribution to wider problems of freight movement around the Community and in a wider context (point 4.5.5).

7.3 Recent events in financial markets and exchange rates in the Far East have created an uncertain environment for a number of industries, including shipbuilding. The Committee recognizes that the Commission will need to monitor events and, if necessary, take appropriate action if there is a prospect that the shipbuilding industry will be adversely affected.

7.4 Whilst the removal of operating aid, and its replacement by more selective measures lie at the core of the proposed regulation, the ESC would be reluctant to support the removal of operating aid if the prospects for competitive success were considered too low and if the alternative measures do not offer an equivalent effect (point 4.2.4).

7.5 The Committee suggests that a further comparison to establish the relative competitive position of the main producers should be undertaken before a final date for the removal of operating aid is decided (point 4.3.5).

7.6 The Committee welcomes the assurance that at the end of 1999 (one year before the deadline) the Commission will monitor the market situation and, if anti-competitive practices are established, will consider introducing appropriate measures (point 4.3.6).

7.7 Difficulties might occur if the scope of the new regulation was not broadened to cover critical aspects of ship repair activities and the Committee welcomes this more logical approach to the range of shipbuilding, ship conversion and ship repair activities (point 4.4.1).

7.8 The proposals relating to export credits, contract aid, closure aid, restructuring aid and investment aid are supported. However, the ESC would be concerned if the consequence of the changes was to increase the level of official expenditure on shipbuilding whereas the effect is supposed to be the opposite; i.e. the reduction and removal of aid (point 5.7.1).

7.9 The Commission should monitor the impact of the arrangements and, in particular, the impact of the different types of support (point 5.7.3).

7.10 The Commission should avoid any measures which could result in an international "subsidy race" and should continue its endeavours to control, and ultimately phase out, subsidies to shipbuilding through an overall agreement within the philosophy of the OECD Agreement. This should be established as a basic principle in order to avoid the building of vessels for which there is no economic justification and where the consequences may be to unfairly distort activity in the shipbuilding sector and seriously damage the economics of the shipping industry (point 4.2.5).

Brussels, 25 February 1998.

The President
of the
Economic and Social Committee

Tom Jenkins

The Secretary-General
of the
Economic and Social Committee

Adriano Graziosi

OPINION
of the
Economic and Social Committee
on the
Proposal for a Council Directive amending
Directive 94/58/EC
on the minimum level of training of seafarers

Rapporteur: Eduardo CHAGAS (Portugal - Workers' Group)

On 17 October 1996 the Council decided to consult the Economic and Social Committee, under Article 84 of the Treaty establishing the European Community, on the

Proposal for a Council Directive amending Directive 94/58/EC on the minimum level of training of seafarers

(COM(96) 470 final).

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 9 April 1997. The rapporteur was **Mr Chagas**.

At its 345th plenary session (meeting of 23 April 1997), the Economic and Social Committee adopted the following opinion with 123 votes for, one vote against and three abstentions.

1. Background

1.1 Council Directive 94/58/EC¹ on the minimum level of training of seafarers was based on the 1978 IMO STCW² Convention.

1.2 The directive also contained provisions on the language skills of the crew and enabled the Port State Control to check the ability of seafarers to communicate between themselves and whether the training level meet the standards of the STCW Convention, especially on passenger vessels.

¹ OJ No L 319, 12.12.1994, p. 28.

ESC opinion - OJ No C 34, 2.2.1994, p. 10 (Rapporteur : Mr Etty)

² International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW).

1.3 In its opinion on the proposed directive the Committee noted that the proposed text would have to be amended shortly after adoption since the revision procedure of the 1978 STCW Convention at IMO level was expected to be completed by 1995.

2. The revision of the 1978 STCW

2.1 The “human factor” is commonly held responsible for 80% of maritime accidents and is an important agenda item for international organizations. As part of its work on the “human factor” the IMO revised the 1978 STCW Convention.

2.2 The IMO Circular which provides guidelines on the revised STCW Convention advises that in the late 1980s it was realized that the 1978 STCW Convention was not achieving its purpose, which was to establish uniform international minimum standards, and was losing credibility. The main reason for this was that it lacked precise standards and often said “to the satisfaction of the Administration”, which led to widely varying interpretation of the standards and a perception that STCW certificates could not be relied upon.

2.3 The IMO Circular also notes that the knowledge and sea service requirements contained in the STCW Convention did not define the skills and competencies which should be gained. It was suggested that the effectiveness of on board training was being undermined by:

- crew reductions;
- faster turnaround times;
- more frequent crew changes; and
- different mixes of backgrounds due to multi-national manning.

2.4 The IMO Circular additionally recalls that since the adoption of the STCW Convention there had been changes in the structure of the world fleet and the supply of seafarers had shifted from the traditional maritime nations. It was also said that there had been changes to the traditional organization on ships and the duties and responsibilities of the crew and that there was a need to tackle the human related causes of accidents.

2.5 The main aims of the revision process were to:

- transfer all the detailed technical requirements to an associated code;
- clarify the skills and competence required and to take account of modern training methods;
- require Administrations to maintain direct control over and endorse the qualifications of those masters, officers and radio personnel they authorize to serve on vessels flying their flag;
- make Parties to the Convention accountable to each other, through IMO, for their proper implementation of the Convention and the quality of their training and certification activities; and
- have amendments enter into force for all Parties to the Convention with the least possible delay.

2.6 In summary, the principle aim was to ensure that the STCW Convention was up to date and established guaranteed unified minimum standards of competence.

2.7 The revised STCW Convention consists of the following:

- the original Articles of the 1978 STCW Convention (unamended);
- the Regulations (which have been heavily revised);
- Part A of the STCW Code (which is mandatory);
- Part B of the STCW Code (which is a recommendation and aims to provide additional guidance in the interpretation of the mandatory requirements); and
- a number of STCW Conference Resolutions.

2.8 The format of the revised STCW Convention is:

- Chapter I - General provisions;
- Chapter II - Master and deck department;
- Chapter III - Engine department;
- Chapter IV - Radio communication and radio personnel;
- Chapter V - Special training requirements for personnel on certain ship types;
- Chapter VI - Emergency, occupational safety, medical care and survival functions;
- Chapter VII - Alternative certification; and
- Chapter VIII - Watchkeeping.

2.9 In order to clarify the linkage between the alternative certification provisions found in Chapter VII and the provisions found in Chapters II, III and IV, the following seven functions were identified:

- navigation;
- cargo handling and stowage;
- controlling the operation of the ship and care for persons on board;
- marine engineering;
- electrical, electronic and control engineering;
- maintenance and repair; and
- radio communications.

2.10 The revised STCW Convention also distinguishes between the following three levels of responsibility:

- “Management level” - which means the level of responsibility associated with serving as a master, chief mate, chief engineer officer or second engineer officer. The level of responsibility covered relates to ensuring that all functions within the designated area of responsibility are properly performed.
- “Operational level” - which means the level of responsibility associated with serving as officer in charge of a navigational or engineering watch or as designated duty engineer for periodically unmanned machinery spaces or as a radio operator. The level of responsibility covered is associated with maintaining direct control over the performance of all

functions within the designated area of responsibility in accordance with proper procedures and under the direction of the individual serving in the management level for that area of responsibility.

- "Support level" - means the level of responsibility associated with performing assigned tasks, duties or responsibilities under the direction of the individual serving in the operational or management level.

2.11 The various functions at the three levels of responsibility are established in Part A of the STCW Code in the form of comprehensive tables which set out in detail the:

- competence;
- knowledge, understanding and proficiency;
- methods for demonstrating competence; and
- criteria for evaluating competence.

2.12 The revised STCW Convention is therefore a much more complex instrument than the previous Convention and each part is integral to the others.

The Committee recalls that when the Directive 94/58/EC on the Minimum Level of Training of Seafarers was adopted, Article 9(3)(a) required the Commission to propose a set of criteria for the recognition of types of certificates issued by institutes or administration which would be defined by the Council before 1 July 1995, in accordance with the conditions of the Treaty. They have now done so in Article 9(3)(a) of the amending directive.

3. General Comments

3.1 The Committee is of the opinion that nothing should be done which could in any way undermine the integrity and enforceability of the revised STCW Convention at the international level and considers that the revised STCW Convention is a complex instrument which can only be read in its entirety.

3.2 The Committee is of the view that a European directive giving effect to the revised STCW Convention could complement this Convention provided:

- it does not cause any unnecessary duplication of requirements and will not require frequent revision;
- it will not create legal uncertainty or a legal conflict between the international and national obligations of Member States who are also Parties to IMO Instruments;
- it is fully in line with the undertakings of the Commission, as contained in the Communication on Safe Seas COM(93) 66 final³;
- it does not prejudice the aims the IMO articulated when it adopted the revised STCW Convention;

³ ESC Opinion : OJ No. C 34 of 2.2.94, p. 47

- it does not contain any provisions which could be interpreted as permitting any watch-keeping arrangements which contradict the provisions of the revised Convention.

3.3 The Committee is of the opinion that the amending directive should fully reflect the clarification of the revised STCW Convention transitional provisions and the implementation dates for the various requirements which have been agreed within the IMO.

3.4 The amending directive very properly introduces a new Article 51 covering fitness for duty which reproduces the minimum rest provisions in Chapter VII of STCW 95. However the Committee cannot ignore the fact that the ILO has more recently adopted its new Convention No. 180 on seafarers' hours of work. It might be appropriate for the Commission to develop in due course and following the entry into force of Convention No. 180 with its accompanying Resolutions a single instrument addressing both the IMO and ILO standards so as to avoid any confusion as to the measures to be applied by Member States.

3.5 The amending directive only contains some of the regulations found in the annex of the revised STCW Convention and does not reproduce Part A and Part B of the IMO STCW Code. Moreover, it fails to make clear whether the amending directive seeks to give full effect to the international obligations of the Member States who are also Parties to the STCW Convention or is supplementary and provides complementary European obligations.

3.6 Although the preamble of the current proposal for a Council directive states that "the provisions of the revised STCW Convention should be properly reflected in the directive as soon as possible in order to ensure that Member States act in consistency with their obligations at international level", as presently drafted it fails to achieve this aim.

3.7 The revised STCW Convention requires that officers at management level have a knowledge of the national (flag State) legislation. In the Explanatory Memorandum (paragraph 16) of the Commission's proposal it is suggested that Member States can meet the requirement merely by providing a summary and some form of written test which is completed and forwarded to the Administration. The Committee is doubtful as to whether this is in conformity with the revised STCW Convention as it will not be possible to ensure that adequate control procedures can be exercised and that quality assurance standards can be applied. As such, the Committee is concerned that such guidance may be in breach of both the letter and the spirit of the revised STCW Convention.

3.8 The Committee noted that the IMO had agreed that the 69th session of the Maritime Safety Committee would, at a meeting scheduled to be held in May 1997, adopt a number of amendments to the revised STCW Convention, and agreed that it is clear that a suitable mechanism must be put into place to ensure that the amended directive will give effect to the international obligations of the Member States. The proposed amendments are:

- an addition to Regulation V/2 (Mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on ro-ro passenger ships) in the form of an addition to Regulation V/2.3;
- a new Regulation V/3 (Mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on passenger ships other than ro-ro passenger ships);
- replacement of some of the current text in Section A-V/2 of Part A of the STCW Code (Mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on ro-ro passenger ships);

- the addition of a new paragraph 5 in Section A-V/2.5 of Part A of the STCW Code (Crisis management and human behaviour training); and
- the addition of a new Section A-V/3 in Part A of the STCW Code (Mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on passenger ships other than ro-ro passenger ships).

3.9 The requirements contained in the proposed new text of Article 9(3)(a) are in conformity with the requirements of Regulation I/10 of the revised STCW Convention, insofar as the STCW Regulation requires the competent administration to confirm, through all necessary measures, which may include inspection of facilities and procedures, that the requirements concerning standards of competence, the issue and endorsement of certificates and record keeping, are complied with. The Committee recommends that such inspections will indeed take place, on a random basis, and/or whenever there seems to be a good reason for that.

3.9.1 The Committee agrees with this provision. However, the following aspects have to be carefully considered :

- the practicability of such a mandatory provision as it would require the inspection of individual maritime colleges,
- the respect of such a measure in the case of existing non-EU seafarers currently serving on EU flag vessels and the necessity of such a requirement in the case of all non-EU countries seafarers, in view of the requirements contained in Regulations I/7 and I/8 of the revised STCW Convention,
- the need for the amending Directive to contain adequate control and enforcement provisions.

3.9.2. In view of the above, the Committee suggests that the criteria for the inspection of non-EU training institutions contained in Article 9(3)(a) sub-paragraphs 2 and 3 should be retained. However, provided it does not undermine the objectives of ensuring harmonized and qualified training and certification activities, consideration should be given as to whether sub-paragraphs 2 and 3 would be better presented by way of recommendatory guidance.

3.10 The Committee recalled the statement contained in paragraph 1.4. of the opinion it had provided⁴ on the inclusion of other relevant international instruments relating to the training of seafarers. Including ILO Conventions 53 (Officers' Competency Certificates) (1936), 74 (Certification of Able Seamen) (1946), 69 (Certification of Ships' Cooks) (1946) and 164 (Health Protection and Medical Care of Seafarers) (1987) as the majority of the EU Member States have ratified these ILO Conventions.

3.11 Finally, the Committee notes that neither the Directive 94/58/EC nor the 1978 STCW or the 1995 STCW Conventions apply to fishing vessels and that a parallel convention was adopted by the IMO (the STCW-F Convention). It urges the Commission to encourage the Member States to ratify the new convention in order to ensure an harmonized EU approach on the standards of training and certification of fishing vessels crews.

⁴ See also footnote 1

4. Specific Comments

4.1 The amending directive could clearly and unequivocally establish the principle that it does not in any way interfere with the obligations those Member States who are also Parties to the STCW Convention have to the IMO. The Committee recommends that an express clause to this effect be added to the Articles of the amending directive.

4.2 The Committee also recommends that the amending directive should also contain an express provision to the effect that the amending directive establishes a minimum European standard and that the Member States are free to adopt higher national standards of competence. Although such a provision is implied by Article 2 of the directive the Committee feels that an express clause to this effect should be inserted into the preamble of the amending directive.

4.3 The Committee further suggests the inclusion of an additional paragraph in the preamble to the amending directive to the effect that:

"Recognizing that the revision of the 1978 STCW Convention was undertaken using the 'tacit acceptance' method provided for in Article XII of the Convention and this directly imposes obligations on those Member States which are Party to the Convention."

4.4 The amending directive fails to revise Article 8 of Council Directive 94/58/EC. However, Article 8(1) is not in conformity with the new Regulation V-13(c) of the IMO SOLAS⁵ Convention which enters into force on 1 July 1997. The new IMO SOLAS Regulation, contained in Chapter V under the sub-heading "Manning", states:

"On every passenger ship to which Chapter I applies, to ensure effective crew performance in safety matters, a working language shall be established and recorded in the ship's log book. The company or the master, as appropriate, shall determine the appropriate working language. Each seafarer shall be required to understand and, where appropriate, give orders and instructions and report back in that language. If the working language is not an official language of the State whose flag the ship is entitled to fly, all plans and lists required to be posted shall include a translation into the working language".

4.5 The Committee noted that the IMO SOLAS Conference which adopted the new SOLAS requirement also adopted a Conference Resolution (No. 10) calling for such a requirement to be extended to all ships. The Committee therefore recommends that the Commission utilizes this opportunity to adopt a requirement that there is a single working language on all ships flying European flags and those, irrespective of flag, which call at European ports as it did in the case of passenger ships when it adopted the directive.

4.6 The amending directive should also contain the key definitions which are contained in Article II of the 1978 STCW Convention. Article 4 of the amending directive which corresponds to Regulation I/1 of the revised STCW Convention (definitions and clarifications) omits a definition of "month" and contains a revised definition of "approved". The Committee recommends that the definition of "month" be added and the definition of "approved" brought into line with that found in the revised STCW Convention.

⁵ International Convention for the Safety of Life at Sea

4.7 Article 5(a)(4) restricts the rights of Member States to make their own judgements and decisions concerning the definition of near coastal voyages and the standards to be prescribed for them by requiring approval through the procedure under Article 13. The Committee notes that Article 5(a) does not include the corresponding provisions in STCW Regulation I/3, paragraph 5, which states that "*Nothing in this Regulation (concerning near coastal voyages) shall, in any way, limit the jurisdiction of any state, whether or not a Party to the Convention*".

4.8 In Article 5b, which corresponds to Regulation I/5 of the revised STCW Convention (national provisions), the replacement of "any Party" by "any Member State" in paragraph 4 of the amending Directive changes the meaning of the text and could be interpreted as meaning that a Member State is not required to co-operate with non-EU States with regard to non-compliance by companies located in the EU. As such, this requirement is not in compliance with the provisions of the revised STCW Convention and the Committee recommends that it should be revised in line with the requirements found in the revised STCW Convention.

4.9 Article 5d corresponds to Regulation I/9. Paragraph 4.2 of the amending directive imposed a condition of the requirement to make available information to non-EU States and companies to there being in existence a reciprocal agreement, which is not the case in the revised STCW Convention. The Committee is of the view that this is unnecessary and recommends that the text be amended to reflect the requirements of the revised STCW Convention.

4.10 The Committee notes that paragraph 1.5.3 of Article 9(3)(a) of the amending directive could be interpreted as requiring all foreign seafarers to have completed an approved ARPA simulator course. This Committee considers that this provision should be clarified so that it is limited to those officers assigned to a navigational watch.

4.11 The Committee considers that there is some ambiguity in the criteria for the approval of maritime training institutions as the provision could be interpreted as requiring that maritime training institutions must be able to provide living accommodation (Section 2 sub-paragraph 2.1.1 of Article 9(3)(a)). As many training institutions do not possess their own living accommodation facilities and such a requirement would have nothing to do with the conduct of education and training programmes and courses, the Committee considers that this requirement would be unnecessary and recommends that the potential ambiguity must be removed.

4.12 In Section 2 of Article 9(3)(a), sub-paragraphs 2.6 and 2.7, there is a requirement that a maritime training institution must provide the Member State with computerized copies of their records. The Committee considers that it would be reasonable to provide an alternative method of meeting this requirement through the provision of records in a suitable written form.

4.13 The Committee notes that the amending directive does not contain any provisions equivalent to those contained in Regulation I/13 of the revised STCW Convention (conduct of trials). The Committee is firmly of the view that the watchkeeping provisions should be retained in the amending directive and that the Commission should use this opportunity to

6 OJ No. C 47, 19.2.96, p. 27.

ensure that solo watchkeeping during periods of darkness cannot be carried out on European flag vessels nor within European waters by foreign flag vessels. The European Parliament in a Resolution on safety at sea⁶ urged the Commission to move in that direction too.

4.14 The Committee suggests that the contents of paragraph 1 of chapter 1 of the annex to the amending directive, which contain references to Parts A and B of STCW Code, should be more appropriately contained in an Article within the amending directive. Perhaps, with a view to ensuring greater clarity, into Article 1.

Brussels, 23 April 1997.

The President
of the
Economic and Social Committee

Tom Jenkins

The Secretary-General
of the
Economic and Social Committee

Adriano Graziosi

OPINION
of the
Economic and Social Committee
on the
Proposal for a Council Directive on the
registration of persons sailing on board passenger ships

Rapporteur: Francis J. WHITWORTH (United Kingdom - Employers' Group)

On 27 January 1997 the Council decided to consult the Economic and Social Committee, under Article 84 of the Treaty on the

Proposal for a Council Directive on the registration of persons sailing on board passenger ships

(COM(96) 574 final).

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 9 April 1997. The rapporteur was **Mr Whitworth**.

At its 345th plenary session (meeting of 23 April 1997), the Economic and Social Committee adopted the following opinion with 119 votes for, two votes against and seven abstentions.

1. Introduction and Background

1.1 The proposed directive has its origin in the Council Resolution of 22 December 1994 on the safety of roll-on roll-off passenger ferries. Recalling amongst other accidents the capsizing of the ferry "Estonia" the previous September, the resolution called for Member States and the Commission to support a range of specific activities in the International Maritime Organization (IMO) and invited the Commission to submit proposals for certain mandatory requirements of which the registration of passengers on ferries regularly using EC ports was one.

1.2 Since that date the IMO has developed and adopted certain amendments to the International Convention for the safety of life at sea 1974 (SOLAS). Regulation III/27, entitled information on passengers, adopted last June and applicable to all passenger ships on international voyages lays down requirements for the counting of passengers and the recording of certain information about them. The regulation will enter into force on 1 July 1998.

1.3 The SOLAS Regulation permits certain derogations:

- ▶ passenger ships may be exempted if their scheduled voyages render the recording of the information impracticable;
- ▶ ships which do not proceed more than 20 miles from land may be exempted if their flag

administration considers that the sheltered nature of the voyage renders the requirements unreasonable or unnecessary.

2. The Commission's proposal

2.1 The Commission has based the proposed directive on the new SOLAS Regulation. It proposes that it should be applicable to all passenger ships of whatever flag departing from a port located in a Member State in domestic as well as international voyages. (Certain requirements are also prescribed for ships inbound from ports outside the Community.) The Commission stresses that without such a Directive the SOLAS Regulation would be binding only on flag States and that to ensure its coherent implementation for all passenger ships sailing from EC ports it is necessary to extend jurisdiction over its requirements to port States; it also points out that the latter are responsible for search and rescue (SAR) activities in the event of any casualties.

2.2 The proposed directive requires:

- all persons on board to be counted prior to a vessel's departure and masters to ensure that the numbers do not exceed those for which the vessel has been certified;
- for ships undertaking voyages of more than 20 miles the names, genders, and categories of all passengers, together with any individually notified special needs, to be recorded and communicated within 30 minutes of departure to a designated individual in the company whence it can be made available to the SAR authority as and if required;
- companies to set up a system for such registration which meets certain functional criteria;
- Member States to bring into force regulations for compliance by 1 January 1998 with the registration provisions taking effect by 1 January 1999.

2.3 While under the proposed directive the recording of passenger information is only required for voyages of more than 20 miles there is no provision for derogation on the grounds of impracticability and the grounds for exemption for vessels operating in restricted waters are much more stringent than those in the SOLAS Regulation.

3. General comments

3.1 In broad terms the Committee welcomes the proposal for a Council directive on this matter. It accepts the necessity for Community legislation which is binding on the port state as well as the flag state. It welcomes the fact that the proposed directive is based on IMO decisions as contained in the SOLAS Regulation, this being consistent with the position it has taken in a host of its previous opinions on maritime matters. It accepts that the rules should be equally applicable to ships engaged on domestic as well as international voyages as there is no case for dual safety standards in these areas.

3.2 As to the substance of the directive, it is beyond question that the number of passengers on board should be counted and that masters should be obliged to ensure that they do not exceed the number laid down in the vessel's passenger certificate. The Committee supports these provisions unreservedly though it should not be necessary to introduce a new regulation to ensure that this basic safety requirement is carried out.

3.3 The recording of the names and other details of passengers constitutes a new

requirement. The Commission states in a number of instances in its explanatory memorandum that the purpose of this is to facilitate SAR operations. While knowledge of the numbers on board is essential to these and awareness of their categories (adults, children and infants) is helpful, the actual names of passengers only become relevant in the aftermath of a casualty - to enable the company to answer queries from relatives and to aid identification of the dead and injured.

3.4 There can be no doubt that the requirement to record the names of all their passengers will create considerable administrative difficulties for these ferry companies operating intensively scheduled services on routes where a significant number of passengers buy a ticket on a "turn-up-and-go" basis at the time of embarkation. Current booking practices record the names of drivers but not of passengers and there may be as many as fifty of these in a bus or coach. On certain services it will be difficult to avoid extending embarkation times (with delays to passengers and reduced operational efficiency) even with the use of sophisticated (and costly) electronic equipment.

3.5 The scale of the operation would be vast. The peak season schedules of one single port contain 65 sailings **each day** to which the recording provisions would apply, with an aggregate total of **63,000 passengers**. Each and every such name would have to be ascertained and recorded to be retained for little over one hour before the list was scrapped unless the vessel in question had become a casualty during that period.

3.6 It was undoubtedly with these considerations in mind that the SOLAS regulation contained the derogation on account of impracticability described in paragraph 1.3 above. The Committee suggests that the Commission should give further consideration to such a possibility, perhaps adding a clause to the proposed directive which would permit Member States to sanction an alternative recording arrangement on a particular route where they would judge the requirement to record individual names to be impracticable. Essentially such an arrangement would have to be agreed by both (or all) the port states concerned, be fully compatible with the SOLAS criteria, take full cognizance of the SAR and weather forecasting facilities in the area and not result in any distortion of competition between one scheduled service and another.

3.7 Subject only to this suggestion and the specific comments which follow, the Committee considers that the proposed directive constitutes an appropriate response on the part of the Commission to the new SOLAS Regulation .

4. Specific comments

4.1 Article 4.3

In the penultimate line "contained in" would be more appropriate than "referred to in".

4.2 Article 5.1

Passengers and crew should be counted separately as it is the number of the former which should not exceed the number on the ship's passenger certificate.

4.3 Article 6

It should be made clear, either in this Article or by defining a voyage in Article 2, that the 20-mile threshold applies on a port-to-port basis and not to the aggregate distance

involving passages between more than two ports.

4.4 **Article 8**

As the SOLAS requirement is for the information to be made available to the SAR services **when needed**, the first sentence of the third paragraph should read:

"The company shall ensure that the information required by this directive can at all times subsequent to the period specified in Article 6, be made immediately available to the designated authority on request."

It should also be made clear that there is no requirement for the information to be held in documentary form as long as it can be readily transmitted e.g. from a computer.

4.5 **Article 11.1(iv)**

The requirement that the system must be worked out in such a way that no undue delay is caused to passengers raises the question of practicability discussed in paragraph 3.4 above.

4.6 **Article 11.2**

This requirement should be deleted. It is for the company to decide the optimum method of compliance in each circumstance, subject to the approval of the Member State.

Brussels, 23 April 1997.

The President
of the
Economic and Social Committee

Tom Jenkins

The Secretary-General
of the
Economic and Social Committee

Adriano Graziosi

OPINION
of the
Economic and Social Committee
on the
Communication from the Commission to the Council,
the European Parliament,
the Economic and Social Committee and
the Committee of the Regions
“Towards a new maritime strategy”

Rapporteur: Francis J. WHITWORTH (United Kingdom - Employers' Group)

On 9 April 1996, the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty, on the

Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions “Towards a new maritime strategy”

(COM(96) 81 final).

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 9 October 1996. The Rapporteur was **Mr Whitworth**.

At its 339th Plenary Session (meeting of 31 October 1996), the Economic and Social Committee adopted the following Opinion by 53 votes for and one abstention:

1. Introduction and Background

1.1 The Commission's attempts to create a framework for a Community Shipping Policy date back to 1985. Its proposals at that time centred on four draft Regulations which were the subject of a detailed Opinion¹ (in two parts) and a Report from the Economic and Social Committee. These stressed the importance of the shipping industry to the Community and the need for a coherent maritime transport policy for the promotion of Community shipping as well as giving specific comments on the draft Regulations.

1.2 The latter were adopted in December 1986², specifically

Reg. 4055/86 applying the principle of freedom to provide maritime transport between Member States and between Member States and third countries;

¹ OJ No. C 344 of 31.12.1985, page 31.

² OJ No. L 378 of 31.12.1986, pages 1, 4, 14 and 21.

Reg. 4056/86 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport (competition rules);

Reg. 4057/86 on unfair pricing practices in maritime transport;

Reg. 4058/86 concerning coordinated action to safeguard free access to cargoes in ocean trades.

1.3 In 1989 the Commission produced proposals under the general heading "Positive Measures for Maritime Transport" embodying draft Regulations for the establishment of a Community ship register (the EUROS register), the definition of a Community shipowner and the freedom to provide maritime transport services within Member States (cabotage).

1.4 The Economic and Social Committee produced a further Opinion in which it stated *inter alia* "The measures as presently proposed fall well short of the Commission's own objectives... Without positive and specific measures to alleviate the burdens imposed by Member States in the areas of employment costs and company taxation, the Commission's package is insufficient to promote the EC fleets and halt the decline in the Community shipping industry³".

1.5 Subsequently a Regulation on Maritime Cabotage was adopted (Reg. 3577/92⁴) but no agreement in the Council could be reached on the other two draft Regulations and the current Communication proposes that they should be formally withdrawn.

1.6 No further proposals for Positive Measures for Maritime Transport have emerged in the interim, although there have been a series of measures on Maritime Safety (which have generally had the support of the Committee in its Opinions) and the Commission has set up the Maritime Industries Forum to develop an industrial policy approach to related maritime industries in general.

2. The Commission document

2.1 The present Commission document takes the form of a Communication outlining a substantial number of policy options designed to enhance the position of Community shipping in three main areas:

- safety and fair competition;
- maintaining open markets;
- a policy for competitiveness.

It lists a considerable number of points for possible action but does not seek to lay down concrete or detailed proposals at this stage. It is clearly the Commission's intention to formulate specific proposals based on the reactions to this document of the other Community Institutions, the Member States and other interested parties.

3. The Commission's analysis

3.1 The analysis contained in the document suggests that while the decline since 1985 in the proportion of the world fleet owned or controlled by EC interests has been relatively modest (and that this fleet has in fact grown in real terms), the proportion operated under the flags of EC Member States has continued its inexorable decline.

³ OJ No. C 56 of 7.03.1990, page 70.

⁴ Council Regulation (EEC) No. 3577/92 of 7.12.1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) (OJ No. L 364 of 12.12.1992, page 7).

3.2 Continued flagging-out has been the main contributory factor in the continuing substantial loss of employment for EC seafarers. Yet at the same time a significant world-wide shortage of qualified seafarers has become apparent and the present intake into the industry is inadequate to meet anticipated future demands.

3.3 The analysis attributes these trends to competitive disadvantage and gives specific examples of the differences (sometimes substantial) in both tax and crew costs between certain EC Member States and lower-cost open registry countries as well as between individual EC Member States themselves.

3.4 The analysis emphasizes the favourable outlook for world shipping in terms of continuing growth in world trade and trading opportunities. (OECD and other forecasts indicate that world seaborne trade will double by the year 2010.)

3.5 The document stresses the need for EC shipping, in terms both of economic independence and particularly its contribution to the broader economy. It specifies a wide range of shipping-related activities ashore which export services to the rest of the world, provide substantial employment and boost the EC's economy. Indeed the jobs which these industries provide outnumber those at sea and the "Core Group"⁵ report identified a 70/30 value added ratio. Nevertheless seafaring qualifications and experience are indispensable for such activities as is a base of shipping operation and control if they are not also to move overseas.

3.6 The Commission emphasizes the continuing globalization of shipping. It notes that the measures taken by the EC and Member States to increase the competitiveness of the EC shipping sector have thus far been unable to reverse flagging-out and loss of seagoing employment but affirms that policy responses within the EC which are out of touch with current world-wide trends and standards will lead to further exits of capital and labour from EC flags.

4. The Commission's proposals for action

4.1 The Commission document contains a number of points for discussion and possible action, grouped under the three headings, the most important of which are perceived to be as follows:

4.2 Safety and fair competition

- convergent application of internationally agreed rules and standards to all flags;
- non-binding IMO Resolutions to be made compulsory through EC legislation;
- adoption of IMO criteria for establishment and operation of flag state administrations and registers;
- defining and enforcing Flag State obligations at world level;
- common criteria for Member States' registers - including offshore;

⁵ A group of eminent shipping experts set up to advise the Commissioner in the preparation of the strategy document.

- ➔ encouragement of higher standards, e.g. by strengthened port state control, fiscal incentives, differential port charges for high quality operators, financial sanctions against sub-standard ships and cargo owners using them, mandatory third-party liability insurance.

4.3 Maintaining open markets

- ➔ multilateral agreement on liberalization of maritime transport and removal of trade barriers;
- ➔ Commission mandate to negotiate with third countries;
- ➔ revise Regulations 4057/86 and 4058/86;
- ➔ Worldwide agreement on general competitive principles;
- ➔ application of Competition Rules in EC trades.

4.4 A policy for competitiveness

- ➔ incentives for recruitment and training of EC seafarers including financial support from the Commission and Member States;
- ➔ study of training systems of labour-supplying countries;
- ➔ IMO to ensure proper implementation of STCW⁶ standards;
- ➔ improved monitoring of compliance with ILO requirements under all flags through Port State Control;
- ➔ develop and coordinate R&D for maritime sector;
- ➔ state aid to shipping can justify derogation per Article 92(3)(c);
- ➔ state support should reduce employment-related charges and fiscal costs;
- ➔ Community approach to be based on non-discrimination and economic link;
- ➔ state aid to be related to real cost gap of employing EC seafarers and managing ships from EC;
- ➔ tax breaks for keeping EC seafarers employed and securing necessary investment;
- ➔ inventory of current state aids and guidelines to Member States;
- ➔ economic benefit study.

5. General Comments

5.1 The Economic and Social Committee regrets the lack of progress towards enhancing the competitiveness of the EC shipping sector since it issued its 1989 Opinion; that Opinion contained the following comments:

“Early and positive action should be taken by the Community to apply specific measures to reduce the level of manning costs, without prejudice to the seafarers concerned, by:

- ➔ *the abolition of income tax on the earnings of all seafarers on EC ships, and*

⁶ Standards of Training Certification and Watchkeeping.

- *the alleviation, to the greatest possible extent, of social security costs for employers and employees relating to the employment of seafarers serving on EC ships*
- *in order to minimize the gap between net pay and gross cost.*
- *The Commission should develop an instrument which would permit:*
- *a reduction of the overall fiscal burden on shipping companies established in Member States and vessels sailing under the flags of Member States;*
- *favourable treatment, for tax purposes, of profits from shipping activities in international markets, including profits from the sale of ships;*
- *flexible fiscal allowances against the costs of purchasing new and second-hand ships to facilitate re-investment in shipping."*

5.2 The Economic and Social Committee has taken every opportunity over the intervening six years to remind the Commission of its declared views but not a single measure has been adopted during that period to give effect to any aspect of these objectives.

5.3 It should be acknowledged that the Commission's work in the field of maritime safety and particularly Port State Control (supported by the Committee in its Opinions on the subjects) has been of some benefit to EC shipping by requiring its competitors whose ships visit EC ports to maintain at least minimum international standards of construction, operation and manning.

5.4 Nevertheless, the consequence of the absence of positive measures as proposed by the Committee is plain to see in the continued decline in the tonnage on EC registers and in the employment of EC seafarers.

5.5 Accordingly, the Economic and Social Committee welcomes this new, if belated, initiative and acknowledges that it makes a real attempt to address some of the specific points contained in the 1989 Opinion.

5.6 The Economic and Social Committee believes that a competitive and efficient maritime transport sector is an indispensable element for the global competitiveness of the EC economy, not only because of the latter's dependence on such transport for the carriage of its industry's goods and materials but also because of the contribution to the broader economy made by the whole range of shipping-related activities noted in paragraph 3.5 above.

5.7 Its basic objective in this field, simply stated, is that the fleets owned or controlled by Community shipping interests should, to the greatest possible extent consistent with their competitiveness, be registered under the flags of Member States and manned by Community seafarers on conditions consistent with Community social legislation and employment standards.

5.8 Equally, the shippers and consignees of cargoes, on which the trading prosperity of the EC is largely dependent, are anxious to secure reliable services provided by safe and efficient ships at reasonable cost in a competitive marketplace and it is in the interests of the overall competitiveness of the EC that they should do so.

5.9 The uniquely mobile nature of the shipping workplace coupled with the availability of lower-cost seafaring personnel from less developed countries and the inexorable development of open and "second" registers has exposed EC-registered and particularly EC-manned shipping to significantly lower cost competition which it cannot hope to meet without the help of positive measures such as those which the ESC has sought in its previ-

ous Opinions and which the Commission now appears to have in mind. These are the realities of the current world-wide trends and standards to which the Commission refers, as noted in paragraph 3.6. above.

5.10 Equally, the shipping environment of at least some Member States is attractive to inward investment from outside the EC. This may bring some benefit in terms of EC manning but certainly is beneficial in respect of shore-based employment, the demand for the services of maritime-related industries and the boosting of the EC as the centre of world-wide maritime activity. Further, it is beneficial for more ships to be on registers which are administered to the highest standards.

5.11 Against this background steps should be taken to:

- neutralize the competitive advantage enjoyed by lower cost substandard ship operation and manning by imposing sanctions on such operators;
- ensure that EC shipping operates in a free market and can compete for the carriage of cargo and passengers on equal terms;
- alleviate cost burdens imposed on EC ship operators (particularly by way of taxation and social on-costs) which their competitors do not have to bear.

5.12 The Commission's current proposals fall under these three headings. If they are translated into concrete instruments which are sufficient in scope and successfully implemented they should encourage the repatriation of EC-controlled shipping, attract new capital into the industry in terms of investment and lead to the starting up of new operational activities in the EC - all in themselves highly desirable objectives.

5.13 So far the proposals are expressed only in outline; hence further clarification and detail will be required in many areas together with more precise facts and figures on which some of the assertions and arguments are based. In particular, while the beneficiaries of the Regulations for maintaining open markets were defined in the 1986 package, it will be necessary for the Commission to identify with some precision which types of EC shipowners and operators should qualify for each of the benefits which it expects to result from its various proposals for positive measures for enhancing competitiveness.

5.14 Nevertheless, the proposals will be examined in detail in the specific comments which follow.

6 Specific Comments

6.1. Safety and Fair Competition

6.1.1 The OECD Study referred to in the Commission document (p. 13) highlights the very substantial cost advantage which a sub-standard ship operator can obtain through non-observance of international rules and standards. Hence the paramount importance of securing agreement within the IMO and the ILO to increasingly higher international standards of ship construction, operation and maintenance as well as fundamental conditions of employment and ensuring that all ships calling at EC ports meet these standards through increasingly effective use of Port State Control.

6.1.2 Member States should pursue common objectives in this respect within the international bodies and, as previously affirmed in ESC Opinions, there is scope for the Commission to play a coordinating role. In particular, as stated in the Opinion on Safe Seas in November 1993, the policy of converting appropriate non-binding IMO Resolutions into binding international instruments is preferable to enforcing these Resolutions only at EC

level although the latter course of action may be contemplated in particular cases if the general policy has proved unsuccessful. There is, however, a risk that this could lead to regionalization.

6.1.3 The Economic and Social Committee fully supports the Commission's proposals for the adoption of IMO instruments laying down criteria for the establishment and operation of Flag State administrations and registers. The standard of Flag State control worldwide must be improved and countries outside the EC encouraged to upgrade their flag administrations. The creation of a multinational team of experts to assist with this task could well be a positive initiative; this might best be done under the aegis (and at the expense of) the IMO.

6.1.4 Equally it supports the proposal that the EC should first set its own house in order by adopting a Community Instrument, based on IMO standards, governing Member State's registers and considers it essential that this forms part of the "acquis" before any of the present applicants for membership are admitted. It is important that the legal status and operation of so-called second registers should also be examined in this context as these too should meet the same standards. The definition of a "Member State Shipowner" will need to be determined, bearing in mind that, in accordance with case law established by the European Court of Justice, the Right of Establishment permits relocation from one Member State to another. Possibly some of the thinking of the now discarded instrument dealing with the definition of "Community Shipowner" may be relevant.

6.1.5 Every effort should be made to ensure the growing effectiveness of the Port State Control and associated arrangements now in place. The Commission and the Member States should not hesitate to revise the current Regulations in the light of experience and to impose more effective sanctions if these are proved to be necessary.

6.1.6 The Economic and Social Committee would support all practicable moves to foster a spirit of quality in shipping and agrees that these could include fiscal and financial benefits for operators who strive to achieve high standards together with differential port charges based on observance of environmental and safety standards. The promotion of effective self-regulatory codes of practice should be encouraged and the vetting programmes of the oil and chemical industries are to be commended. These interests are already liable under international conventions for oil pollution damage. The mandatory insurance coverage of third party liability in the more general context should, as the Commission suggests, be fully examined.

6.1.7 It would be highly beneficial too if the aid of the generality of cargo interests could effectively be enlisted to combat the use of sub-standard ships. Responsible cargo owners already make significant efforts at no insubstantial cost to ensure that their cargoes are transported on board reputable vessels. However, in a number of trades, shippers may have no influence on the choice of vessel. The imposition of specific sanctions in this area should therefore be approached with considerable caution and would need to be targeted at the irresponsible minority who deliberately chose to charter sub-standard ships. For example, sanctions might be imposed on charterers of vessels "black-listed" by the Port State Control authorities having been consistently found to be seriously sub-standard. Accordingly a constructive dialogue should be initiated between the interests involved to see whether practical and equitable arrangements can be devised.

6.1.8 Finally, while fully supporting the concept that the required minimum standards of ship operation should be based on those agreed internationally in the ILO and IMO, the Economic and Social Committee considers that no action contemplated in the context of

the strategy programme as it emerges should undermine or dilute existing standards established within the various Member States.

6.2 Maintaining Open Markets

6.2.1 The Economic and Social Committee welcomes the Commission's commitment to securing free market access and fair competitive conditions globally through multilateral negotiation. Its support for the GATS negotiating Group on Maritime Transport Services is indicative of this approach.

6.2.2 However, while the Commission's proposal to play a coordinating role in opening up markets world-wide is considered a positive use of its powers and status, there is some reservation at its intention to engage in bilateral shipping negotiations. It should be ensured that the Commission's activity in this area does not conflict with its declared commitment to multilateralism and at the same time supports the efforts of the Member States.

6.2.3 The view has been expressed that Regulation 4057/86 has some deficiencies and appears outdated in its present concept for the larger liner trades. However, the Economic and Social Committee urges caution in any proposed revision of the 1986 package of Regulations. There is a danger that their careful balance of compromises and concessions which has contributed to the process of trade liberalization both through direct application and by acting as a deterrent could be undermined in this process. A more rigorous application of the Instruments might be a more appropriate course.

6.2.4 A balanced approach to the commercial and investment needs of shippers and ship operators both within and outside the conference system is required in the assessment of the Community's Competition Rules. The Economic and Social Committee supports the Commission's call for international compatibility of competition rules; however, it underlines the need for a distinction to be made between anti-competitive practices by enterprises and distortions resulting from government measures to restrict access to markets. Recognition should be given to the safeguarding of public services to peripheral areas which, for reason of commercial non-viability, might not otherwise be served by the private sector.

6.2.5 The Economic and Social Committee is aware of the wide divergence of views regarding the determination of freight rates and capacity management programmes in liner shipping. Regulation 4056/86 has become an increasingly contentious piece of legislation, particularly in the light of new forms of cooperation between lines. It is noted that the representation of facts in this part of the document is strongly disputed by shipowner interests who argue that it is one-sided and contains several important inaccuracies. It is, however, fully accepted by shippers. The Commission is bound to give equal consideration to all sides of the argument and should await the outcome of the current deliberations by the European Courts.

6.3 A Policy for Competitiveness

6.3.1 The Economic and Social Committee particularly welcomes the Commission's proposals in regard to training schemes and incentives to employment by Member States, especially the absorption of maritime training costs within national education and training systems. It fully endorses the Commission's view that there is an overall advantage for the EC as a whole in maintaining the maximum number of EC seafarers both for EC shipping and related industries.

6.3.2 Added urgency is given to action on this front by the growing current and forecast shortages of qualified officer and specialist rating personnel currently experienced in some Member States and revealed in the BIMCO/ISF Study to which the Commission refers. In this context the Economic and Social Committee expects that the Commission will take due

note of the Report of the Human Resources Working Group of the Maritime Industries Forum and the Statement of the Joint Committee on Maritime Transport of 14 June 1996.

6.3.3 However, it will be impossible to attract suitable recruits to an enhanced training programme unless they can be convinced that a maritime career will afford them relative security and reasonable prospects with the possibility of subsequent employment ashore. This makes such a programme dependent on the successful adoption of effective positive measures in this area.

6.3.4 There is work to be done to ensure that the certification and training structure fully meets the requirements of the newly revised STCW Regulations.

6.3.5 The Economic and Social Committee would particularly welcome effective action to ensure that the maritime education and training systems of the major labour supplying countries in the third world fully meet the current and revised STCW requirements. A study such as that envisaged by the Commission would seem to be a useful first step.

6.3.6 A practical contribution by the Community's Research and Development programmes which would bring tangible benefits to the competitiveness of EC shipping would be greatly welcomed. This should be developed and monitored through the Maritime Industries Forum but an effective input from the EC's shipping industry is essential.

6.3.7 Paragraph 5.1. above recalls that in its 1989 Opinion the ESC sought specific measures to reduce EC manning costs by removing some of the on-cost burdens imposed by Member States which are not borne by the Industry's competitors as well as the institution by Member States of a less burdensome tax regime geared to the realities of the economics of ship operation. It is these burdens which have contributed significantly to the flagging-out of EC tonnage and a measure of their magnitude can be gauged from the tables in Annex 1 to the Commission's document; further detailed data (which is available in various publications) should be collected by the Commission as part of its study of this issue.

6.3.8 The Economic and Social Committee therefore particularly welcomes the Commission's proposal that support measures should be targeted at reducing employment-related charges and taxes and fiscal costs borne by EC ship operators so as to stimulate directly the development of EC shipping and employment within it, rather than at providing general financial assistance.

6.3.9 This assertion appears in the Commission document under the heading "State Aid to Shipping", but it cannot be emphasized too strongly that the shipping industry is not seeking direct subsidies or subventions from public funds, which despite the Commission's declared policy are still all too common in the aviation industry, but merely the alleviation of financial and fiscal burdens imposed in their different ways by Member States which give rise to a burden of costs which are not applicable to ship operators based outside the EC who employ low cost seafarers.

6.3.10 Any Community approach to State Aid, or more accurately in this case the alleviation of State-imposed financial and fiscal burdens, would have to meet a number of criteria. It would have to be transparent, non-discriminatory and not distortive of competition. It must preserve Member States' right of sovereignty over their taxation regimes. Hence the approach should take the form of revised guidelines, this time directed perhaps towards compensating for the specific additional costs incurred in undertaking within the EC the various elements of ship ownership, management and operation on a real cost basis so as

to enable such vessels to compete on at least level terms with their world-wide competitors. However, the approach should avoid the introduction of unduly complex and bureaucratic procedures.

6.3.11 The Commission appears to have recognized the huge ramifications of ship ownership and management in today's world and the complexity of the institutional arrangements which EC shipping companies have found it necessary to adopt. It also acknowledges the benefits which can accrue from inward investment in the EC shipping. All such activities are contributing in varying degrees to the economic strength of EC shipping, providing seagoing and short-based employment and enhancing the position of the EC as the worldwide centre of this highly international industry.

6.3.12 Hence the Economic and Social Committee endorses the Commission's statement that Member States should ensure that support is focussed on entities which contribute to sustainable economic activity in the EC and that the economic link should be the paramount consideration. However, the Economic and Social Committee considers that the link with the flag cannot be rejected as it is this which establishes a clearly defined link with safety standards and employment practices. Accordingly, it suggests that in devising its revised guidelines the Commission should seek to ensure that these are directed towards the achievement of the various objectives identified in part 5 of this Opinion and particularly the basic objective set out in paragraph 5.7. Clearly there would need to be gradations of such support between various categories of EC shipping companies and the ships they operate according to their manning practices and the extent of their contribution to EC employment and inward investment.

6.3.13 Further, a clear distinction must be made between assistance to shipping companies and general schemes of State Aid directed outside the shipping industry, such as aid to ship building and ship repairing.

6.3.14 As the Commission document points out the current fiscal regimes in the Member States vary widely as they affect shipping companies. The Economic and Social Committee therefore supports the Commission's current exercise of drawing up an inventory of the present position in the various Member States. Similarly the Commission's research project to quantify the economic benefit of the maritime sector in representative Member States is likely to produce useful and informative results.

6.3.15 Finally, the Economic and Social Committee suggests that had its 1989 recommendations in respect of Positive Measures been translated into action by the Commission and the Council at that time EC shipping would now be in a much healthier state than it is today. The Economic and Social Committee re-emphasizes the absolute necessity to take effective steps towards bridging the cost gap if EC shipping companies are to remain in business, vessels are to be kept on or even attracted back to EC registers, and the future employment of EC seafarers safeguarded.

Brussels, 31 October 1996

The President
of the
Economic and Social Committee

Tom Jenkins

The Secretary-General
of the
Economic and Social Committee

Adriano Graziosi

O P I N I O N
of the
Economic and Social Committee
on the
**Proposal for a Council Directive on safety rules
and standards for passenger ships**

Rapporteur: Eduardo CHAGAS (Portugal - Workers' Group)

On 22 March 1996 the Council decided to consult the Economic and Social Committee, under Article 84(2) of the Treaty establishing the European Community, on the

Proposal for a Council Directive on safety rules and standards for passenger ships
(COM(96) 61 final).

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 13 May 1996. The Rapporteur was Mr CHAGAS.

At its 336th Plenary Session (meeting of 29 May 1996), the Economic and Social Committee adopted the following Opinion by 104 votes to one, with two abstentions:

1. Introduction

1.1. Some international conventions on passenger ship safety, such as the SOLAS Convention¹ and the International Convention on Load Lines, exclude from their scope of application passenger ships operating on domestic voyages. This gap in international safety regulations has led to varying levels of safety legislation in the Member States and subsequently varying levels of application.

1.2. Council Regulation No. 3577/92 (maritime cabotage)² demonstrated the need to close this gap in order to guarantee fair competition between operators. In its Communication on a common policy on safe seas of 24 February 1993³, the Commission announced the adoption of common safety requirements for passenger ships. In addition, a Council Resolution of 8 June 1993⁴ called on the Commission to propose measures to guarantee safety at sea for passenger ships in Community waters.

1 Safety of Life at Sea Convention

2 Council Regulation (EEC) No. 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (OJ No. L 364 of 12.12.1992, p.7).

3 COM(93) 66 final in OJ No. C 34 of 2.2.94, p. 47

4 OJ No. L 271 of 7.10.1993, p. 1

2. The Commission proposal

2.1. The aim of the present proposal is to guarantee a uniform level of safety for human life and goods on passenger ships when they are on domestic voyages, and to provide a level playing field based on convergent standards which avoid distortions of competition in the Community.

2.2. In order to achieve these objectives, and on the basis of the SOLAS Convention and the International Convention on Load Lines, the Commission considers the following provisions to be necessary:

- a) a first set of provisions to divide passenger ships into different classes according to the sea area in which they operate;
- b) a second set of provisions to lay down the general safety requirements to be applied to the different classes of passenger ships;
- c) a third set of provisions for the additional safety requirements, equivalents and exemptions. Clearly, all Member States have neither the same configuration of coastlines nor the same geographical and climatic conditions, and neither have all passenger ships the same constructional and design characteristics. Therefore these provisions endeavour to offset insufficient or excessive requirements by introducing additional requirements or exemptions;
- d) A fourth set of provisions covering inspections and the granting of certificates which will enable authorized organizations to carry out inspections and testify that ships are in a seaworthy condition.

2.3. Finally, the Directive lays down procedures for negotiating within the IMO framework the harmonization of the international safety standards applicable to passenger ships engaged on international voyages and the granting of exemptions to such ships when engaged on short international voyages or on international voyages in sheltered areas

3. General comments

3.1. In line with previous Opinions and especially its Opinion on the Communication on a common policy for safe seas⁵, the Committee welcomes the proposal for a Directive and, above all, the plan to harmonize the application of safety rules and standards for passenger ships on domestic voyages, thereby avoiding distortions of competition in this area.

3.2. The Committee notes that the requirements laid down in Annex I differ according to class of ship and whether the ships have already been built or have yet to be built. This is the most appropriate approach, since it allows the requirements to be adapted to specific operating conditions, thereby reducing the possible additional burden of structural or equipment changes.

3.3. The Committee has already endorsed the Commission's view that the Community's maritime transport policy must "secure competitive transport services and ensure that such

⁵ ESC Opinion in OJ No. C 34 of 2.2.1994, p. 47

services take place at a minimal level of risk for crews, passengers, cargo and vessels, for the marine environment and coastal activities" (see footnote 3).

3.4. It is necessary to ensure that standards are properly observed. European cooperation within the framework of the Paris memorandum takes on a special significance in this context. The Committee would recall its Opinion on the proposal for a Council Directive on Port State Control in Community ports⁶ - an area in which a great deal remains to be done.

3.5. In line with earlier Opinions the Committee maintains that the Commission should not replace the Member States on the IMO.

3.5.1. However, this should not stop it coordinating the Member States' participation in this organization. Hence the Committee agrees that efforts must be made at Community level to harmonize the application of the SOLAS Convention rules to passenger ships on international voyages and to the mandatory application, within the framework of the IMO, of the principles laid down in MSC Circular 606⁷.

4. Specific comments

4.1. Article 2(m)

To improve clarity, the words "such State" in the English version should be replaced by "that Member State" (the wording used in Article 2(n)).

4.2. Article 3

It should be made clear in Article 3(2) that passenger vessels used in inland shipping are also excluded from the scope of the proposed Directive.

4.3. Article 4

4.3.1. The Committee points out that the criteria used by Member States to classify passenger ships vary, and that harmonization is necessary.

4.3.2. Since "significant wave height" is one of the criteria for defining the classes of passenger ship, swift action is needed to establish a reference framework.

4.4. Article 6

4.4.1. The Committee notes that it is possible for the Administration of the flag State to lay down rules which are equivalent to those of the Convention, for specific operational conditions. Mindful of the fact that a large number of flag States are incapable of carrying out appropriate safety checks on vessels registered or operating under their flag, the Committee would stress the importance of applying paragraph 3 d) and the provisions on Port State Control (see point 3.4. above).

6 Proposal for a Council Directive concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (COM(94) 73 final)

ESC Opinion in OJ No C 393 of 31.12.1994, p. 50

7 Port State Concurrence on SOLAS Exemptions.

4.4.2. If conformity with the GMDSS⁸ is to be mandatory, the dates laid down for entry into force will have to be adjusted accordingly.

4.5. **Article 7**

The Committee would stress that this Article must not hamper the laying down of provisions which guarantee a higher level of safety.

4.6. **Article 11**

The term “declaration of compliance” (DOC) used in this article must not be confused with the “document of compliance” (DOC) used in the ISM Code.

4.7. **Article 12**

In accordance with point 3.5., the Committee considers that the Commission should retain its coordinating role with regard to Member States’ positions, albeit with the power to make proposals and give a lead.

4.8. **Annex I**

4.8.1. **Chapter II-1, Part B,1**

It should be specified here that the provisions of the Code on Intact Stability only apply to ships of over 24 metres.

4.8.2. **Chapter II-1, Part B,8**

The Committee draws attention to the need to harmonize terminology, notably the terms “regulations”, “rules” and “standards”.

4.8.3. **Chapter II-1, Part B,13**

The Committee draws attention to the need to clarify whether all the subdivisions of Point 7 apply to existing Class B ships.

4.8.4. **Chapter II-2, Part B, 16**

The deadline for compliance (1 October 1997) will need to be amended in accordance with the date of publication of the proposed Directive.

Done at Brussels, 29 May 1996.

The President
of the
Economic and Social Committee

Carlos FERRER

The Secretary-General
of the
Economic and Social Committee

Simon-Pierre NOTHOMB

⁸ Global Maritime Distress and Safety System.

O P I N I O N
of the
Economic and Social Committee
on the
**Communication from the Commission to the European
Parliament, the Council,
the Economic and Social Committee and
the Committee of the Regions**
**The development of Short Sea Shipping in Europe:
Prospects and Challenges**

Rapporteur: Anna BREDIMA-SAVOPOULOU (Greece - Employers' Group)

On 10 August 1995 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the *Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions* *The Development of Short Sea Shipping in Europe : Prospects and Challenges* (COM(95) 317 final).

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 17 January 1996. The Rapporteur was Dr BREDIMA-SAVOPOULOU.

At its 332nd Plenary Session (meeting of 31 January 1996), the Economic and Social Committee adopted the following Opinion with no votes against and three abstentions:

1. Introduction

On 5 July 1995 the European Commission presented its long-awaited Communication on the Development of Short Sea Shipping in Europe. The Communication - which is not a legal text but a policy document - includes an analysis of the potential of short sea shipping and of current problems, and an action programme with the aim of stimulating further discussion leading to specific proposals. It is worth noting that the Communication is the fruit of many years' discussions on the short sea sector at European level under the auspices of the European Commission. The

development of the single market was a basic factor contributing to the promotion of short sea shipping.

1.1. **Transport 2000+**

The Report¹ by the Group Transport 2000 Plus under the aegis of the European Commission (1989), entitled "Transport in a fast-changing Europe - Towards a European network of transport systems" was the first to note that, if measures are not taken to alleviate congestion in the various modes of land transport, and especially in road transport, European land transport will fall victim to a "Verkehrsinfarkt" - a kind of "traffic heart attack". The preventive therapy would be to transfer goods from land to other transport modes, and particularly to short sea shipping and sea-river transport. The idea of transferring goods from land to sea is also aired in other Commission documents, such as the Communication on the Future Development of the Common Transport Policy (December 1992)², and the Green Paper on the Impact of Transport on the Environment (February 1992)³. In other words, short sea shipping is expected to have the potential to help relieve congestion in other forms of transport.

1.2. **Maritime Industries Forum/Short Sea Panel**

1.2.1. The catalyst for promoting short sea shipping was the MIF⁴ under the aegis of Commissioners BANGEMANN and Van MIERT. At the plenary meeting of the MIF (Genoa, October 1992) it was decided that promotion of short sea shipping should be a basic activity of the MIF, through the setting-up of the Short Sea Panel (Panel I).

The MIF Short Sea Panel analyzed existing disincentives to the use of short sea shipping and sea/river transport. The Panel's recommendations concentrate on five points:

- 1) improvement of infrastructure and efficiency in and around ports;
- 2) simplification of administrative procedures;
- 3) fair competition between sea and land transport modes;
- 4) improved marketing of short sea shipping and of sea/river transport;
- 5) introduction of advanced technologies.

More specifically, the above five points are broken down as follows:

1) **Port infrastructure**

- greater flexibility in working methods and working hours in ports;
- flexible and transparent pricing;
- need for action against harmful monopolies;
- introduction of modern techniques;
- incorporation of ports into a combined transport network (given that many ports are not linked up with the road/rail network of their hinterland, and delays occur).

1 See ESC Opinion in OJ No. C 49 of 24.02.1992, p. 52.

2 See ESC Opinion in OJ No. C 352 of 30.12.1993, p. 11.

3 See ESC Opinion in OJ No. C 313 of 30.11.1992, p. 43.

4 European Maritime Industries Forum.

2) **Administrative procedures**

The shipping industry must be in a position to employ administrative procedures which are as simple as those for other modes of transport. The main problems noted are:

- transit and customs procedures;
- VAT;
- veterinary checks;
- regulations on the transport of dangerous goods;
- obstacles of any kind which make it more difficult/unattractive to transfer goods from land to sea transport.

3) **Fair competition between sea and land transport**, i.e. the creation of competition on equal terms, by means of internalization of the external cost of land transport.

4) **Need for improved marketing of short sea shipping**, i.e. information and publicity about short sea shipping is inadequate, with the result that potential users are insufficiently aware of the existence of short sea services as alternative transport:

- frequency of port services;
- reliability;
- attractive pricing;
- short transit times in door-to-door transport;
- a single contracting party.

5) **Introduction of advanced technologies**

This plays an important role in improving the services supplied to users of short sea shipping. Special attention must be given to new types of ship and to new technologies for rapid loading/trans-shipment in ports. Electronic Data Interchange (EDI) and the Commission's R&D programme will help to achieve this aim.

It should be noted that most of the above points have been taken into account in the Communication on short sea shipping.

1.3. As a step towards action based on the above recommendations, the MIF Short Sea Panel played a leading part in the creation of local and national Round Tables to promote short sea shipping at national level on the basis of national conditions. The initial results of the Round Tables, particularly in the North, are encouraging. The South is following with a slight time-lag. On 4-5 May 1995 a workshop of national/local Round Tables was held in Marseilles: participants were encouraged to propose pilot projects, and 20 such projects are already awaiting the Commission's attention.

1.4. The aim of transferring goods from land to sea is consistent with the nature of short sea shipping, since it is:

- the most economic mode of transport in terms of energy consumption (per kilometre/tonne);
- the most effective mode of transport in terms of investment/transport capacity ratio:

- the most suitable mode of transport for serving peripheral regions of Europe, especially northern and southern regions, but also areas such as Ireland, the Black Sea and the Baltic Sea;
- the most environmentally friendly mode of transport (statistically, marine transport accounts for only about 14% of marine pollution, with the remainder coming from other sources);
- virtually free of detrimental effects for society (such as traffic congestion, noise) of land transport.

2. Main points of the Communication

2.1. The Communication examines the contribution which short sea shipping can make to implementing the basic principle of "sustainable mobility"⁵, i.e. mobility compatible with environmental requirements. Its main aim is to promote the shift of goods transport from land to sea. This aim is described as minimizing the land aspect and maximizing the sea aspect of transport.

The Communication analyzes the potential of short sea shipping under three headings:

- improving the quality and efficiency of short sea shipping services;
- improving port infrastructure and port efficiency;
- preparing short sea shipping for a wider Europe.

2.2. Improving the quality and efficiency of short sea shipping services

Short sea shipping services will be given a boost by the Community's Fourth R&D Framework Programme. The MARIS (Maritime Information Society) Programme and its sub-programme MARTRANS for logistics receive special mention. EDI will also contribute to promoting short sea shipping, as will the expected liberalization of marine transport within Member States (cabotage) on the basis of the schedule laid down in Regulation No. 3577/92.

2.3. Improving port infrastructure and port efficiency

Ports operate as links in the chain of combined transport (in which the short sea shipping must be integrated) and of trans-European transport networks (TENS). It is therefore necessary to adopt measures to improve them. The Commission is promoting transparency in port tariffs. A list of state subsidies for ports is being drawn up, and guidelines will be issued for the application of Article 92 of the EC Treaty, dealing with such subsidies. Similarly, application of the competition rules (Articles 85, 86 and 90 of the Treaty) will help to eliminate port monopolies. The activity of local and national Round Tables supported by the Commission will assist in arriving at practical solutions.

2.4. Preparing short sea shipping for a wider Europe

Development of short sea shipping must take account of the future broadening of the European Union's activities. A series of EU agreements with the Baltic, Eastern European

⁵ See ESC Opinion on the Future Development of the Common Transport Policy - OJ No. C 352 of 30.12.1993.

and Mediterranean countries will result in increased trade and transport links; and hence in greater opportunities for the development of short sea shipping. The Commission has already set up - on the basis of the conclusions of relevant regional congresses - working parties on the development of waterborne transport in the Baltic, the Mediterranean and the Black Sea. Each working party will draw up a multi-annual work programme which will aim to promote short sea shipping.

2.5. The Communication includes an Action Programme and five Annexes:

2.5.1. ANNEX I: The advantages of short sea shipping

The Communication analyzes the geographical and ecological advantages and stresses the low energy consumption.

2.5.2. ANNEX II: Growth potential of short sea shipping

Annex II states that a study co-financed by the Commission (the "Corridors Study") has examined the competitive position of short sea shipping in eight important EU trade corridors, three of which extend beyond its external borders. The study demonstrated that there are growth opportunities for short sea shipping, i.e. opportunities for shifting trade from land transport to short sea shipping, in at least six of the eight corridors.

2.5.3. ANNEX III: Challenges for short sea shipping in Europe

This Annex on the one hand analyzes the structural obstacles to the development of efficient short sea shipping services (lack of integration with combined transport, uncompetitive pricing, administrative formalities for transit and veterinary checks, unattractive image of the services). On the other, it analyzes problems of port infrastructure and port efficiency (delays, high port dues, labour problems).

2.5.4. ANNEX IV: An integrated policy approach for short sea shipping in Europe

Annex IV identifies the non-integration of short sea shipping in the chain of multi-modal transport as the main problem facing this type of shipping.

2.5.5. ANNEX V: Statistical data

The Communication notes that the lack of reliable statistics and comparative data impedes assessment of the situation and renders proper planning impossible.

3. General Comments

3.1. In recent years, the European Commission's activity has increasingly concerned itself with sea transport⁶. The Communication constitutes an important Commission initiative aiming to shift goods traffic from land to sea⁷. Despite any difficulties or doubts as to the feasibility of the operation, it is clear that if this aim is achieved there will be multiple benefits for the environment, consumers and the short sea sector, and positive effects on the

6 In its Opinion on the Legislative Commission programme for transport/the common transport policy action programme 1995-2000 (1305/95), the Committee concurs with the Commission's view that progress on transport policy matters was very slow during the EEC's first 25 years.

7 A corresponding OECD study found that traffic congestion costs the developed industrialized countries 2% of their Gross National Product (GNP). More particularly, the study finds that accidents account for 2% of GNP, noise pollution 0.3%, local pollution 0.4%, total pollution 1-10% in the long term; the whole time taken up by congestion costs 8.5% of GNP, representing 2% extra when compared with free flowing traffic. It is clear that the bulk of these costs derive from road transport - OECD/European Conference of Transport Ministers' study entitled "Internalization of the Social Cost of Transport" (1993).

employment of seamen. This is a thorough, systematic study of the short sea sector, in which the influence of the MIF Short Sea Panel's conclusions is evident; the Commission should make further use of these conclusions. The ESC regrets that the Commission has not yet created the policy context in which the Short Sea Panel's recommendations will be followed up. It should also be pointed out that the Commission Communication does not go into the problems of flags of convenience and the crews of ships sailing under them (i.e. of open ship registers and below-standard crews). It is also clear that these problems affect coastal shipping and give rise to considerable distortions of competition of marine transport and in relation to other modes of intra-Community transport, by undercutting international social and safety standards.

3.2. It is not the first time that the ESC has studied the development of short sea shipping. In its earlier Opinion on Community guidelines for the development of the trans-European transport network, the ESC expressed its interest in the forthcoming publication of the Communication on short sea shipping⁸. In its Opinion on the Legislative Commission programme for transport, the Committee also welcomes the publication of the Communication on short sea shipping⁹.

3.3. **Definition of short sea shipping**

3.3.1. The Communication gives the widest possible definition of short sea shipping: it covers all sea transport which is not ocean-going. In other words, it includes coastal shipping, transport between mainland coasts and islands, intra-Community shipping (between Member States), shipping within Member States (cabotage) and sea-river transport by ship to and from inland river ports. Geographically, it extends beyond the limits of the EU, to Norway, Iceland, the Black Sea, the Baltic and the Mediterranean area. An example of the kind of confusion that can be caused by the lack of a proper definition is that in Annex V, Table 11 refers to an arbitrary dividing line between short sea and deep sea ships; but no such dividing line exists. Ships of 6,000 GRT are entirely suitable as ocean-going vessels, while large tankers are habitually used on short sea voyages. The size of ships is independent of their type of use.

3.3.2. The ESC notes that this definition will need to be further refined when later legislation is introduced to achieve the aims of the Communication, in order to specify the beneficiaries as well. It is also doubtful to what extent the term "short sea" is appropriate for describing all the above modes of transport, given that some of them are not even short-haul.

3.3.3. The ESC also points out that the short sea sector covers a wide range of diversified activities and services which are by no means homogeneous. Basic types of service in this area include bulk transport, ferries, feeder services and liner services. This is not sufficiently analyzed in the Communication. At all events, it will need to be taken into account in the formulation of specific policy measures.

3.4. **Bulk transport**

The Communication covers mainly goods transport, and secondarily passenger transport. However, it is doubtful whether the analysis of the problems or the proposed measures take sufficient account of the bulk transport sector. The Communication is con-

8 OJ No. C 397 of 31.12.94, p. 23

9 Opinion CES 1305/95.

cerned mainly with liner transport, which normally forms part of combined transport. However, bulk transport - which constitutes 50% of short sea shipping - deserves more detailed examination in the document. As was rightly stated recently, maritime transport, and particularly maritime bulk transport, is the cinderella of transport.¹⁰ It is worth noting that the MIF Short Sea Panel's remit clearly covers bulk transport.

3.5. Ferries

The Communication does not appear to take into account the important role played by ferry (including ro-ro) services in intra-Community transport. They are also of vital importance for certain remote islands and regions. Where such services carry the full economic costs and comparable road and rail services do not pay the full external costs, the competitive disadvantage for ferry services should be removed, or, on environmental grounds, reversed.

3.6. Feeder service

Feeder services connect hub ports with smaller ports not directly served by very large deep sea containerships. These services are probably the fastest growing sector within short sea shipping and their role will continue to grow. As to the proposed measures proper weight does not appear to be given to this important market.

4. Proposed studies

4.1. The Communication envisages a large number of studies. The ESC believes that perhaps not all these studies are necessary to achieve the basic aim of the Communication, i.e. the shift of goods transport from land to sea. It therefore recommends that, depending on the choice of studies, priorities be set on the basis of practical objectives, so as to maximize the effectiveness of Community resources in promoting short sea shipping. Timely consultations with the social partners in the shipping sector will contribute to achieving this.

4.2. Study of the eight trade corridors

The "Corridors Study" (covering the eight trade corridors) sought to use typical examples to identify possibilities for shifting goods transport from land to sea routes. Although the study suggests that in absolute terms the freight volume which can be transferred is not at first sight very high in comparison with road transport, it is considered that, even this proportion contributes to reducing congestion on roads. Moreover, it must not be forgotten that the study in question does not exhaust all the possible goods/markets which could be transferred from land to sea routes. Moreover, it entirely ignores sea transport within Member States (cabotage) and confines itself to cross-frontier transport. Thus further coverage is required here.

4.3. Image of short sea shipping

The ESC agrees with the Communication's stress on the need to improve the image which short sea shipping has among potential users, so as to make it a commercially attractive alternative mode of transport. The sector's image is outdated; moreover, it suffers as a result of the very complicated bureaucratic procedures for goods transit in ports. Given that

10 M. Everard (11.04.95) - Reginald Grout Shipping Lecture.

it is basically small and medium-sized enterprises which are involved in short sea shipping, the use of advertising, information, EDI and advanced technologies is very limited. Particularly for EDI development, the regional funds of the EU could contribute to the funding of the necessary investment.

4.4. Transit/Veterinary checks

The detection and elimination of superfluous bureaucratic checks (especially in transit) is particularly important. In this context, sea transport must not be put at a disadvantage in relation to land transport. The Commission's intention to restrict veterinary checks to the port of final destination is endorsed, but draft legislation is needed as soon as possible.

4.5. Railways versus short sea shipping

The ESC notes that the Communication focuses on comparing short sea shipping with land transport. It pays little attention to the relationship between rail transport and short sea shipping, or to competition between them (especially in northern countries). Despite the fact that rail transport is generally environment-friendly, competition between it and short sea shipping must be on equal terms.

4.6. Freight forwarders

Another disincentive with a negative effect on the competitiveness of short sea shipping - not mentioned in the Communication - is the fact that freight forwarders in the EU, for a variety of reasons prefer to use road transport rather than short sea shipping.

4.7. Maritime cabotage

Given that maritime cabotage comes under the definition of short sea shipping, the Communication (Annex IV) does not give sufficient coverage to the impact of cabotage liberalization on the basis of the timetable laid down in Regulation 3577/92.

4.8. The ESC feels that the role of small and medium scale ports in relieving congestion in large ports and on the main road links should be given greater emphasis and, where this would be justified, qualify for support from the Structural Funds or the Cohesion Fund.

5. Social dimension

5.1. The Communication appears to ignore the social dimension of short sea shipping. Although the ESC acknowledges that to a certain extent the social problems of short sea shipping are of a horizontal nature, i.e. common to sea transport in general - and the Commission will deal with these general problems in other initiatives - nonetheless, specific social problems do exist in short sea shipping, and the Communication ought to examine them. For instance, the lack of 24-hour working (in shifts) in certain ports reduces their productivity as a link in short sea/hinterland combined transport. The lack of flexibility in working conditions in certain ports further impedes the development of short sea shipping. Incentives in this direction should therefore be provided. These problems ought to be discussed by the Round Tables (attended by those properly concerned, including the social partners) with a view to finding practical solutions at the local level. The ESC acknowledges in any case that the development of short sea shipping will have the additional advantage of creating more job opportunities. Success will also depend on the quality of ships and seamen. Efforts to improve quality are all the more necessary because of the world shortage of qualified seamen.

5.2. There is therefore an urgent need at Community level for funding of programmes to attract and training Community citizens for seafaring jobs.

5.3. More stress should also be placed on initial and in-service training of the workforce at all levels, with funding from the European Social Fund. However, it must be acknowledged that progress has been made in the port sector in Europe generally, in terms of improving productivity through new investment in capital equipment and reorganization of working methods. As a result of this reorganization, the employment of dockers has been drastically reduced. In the long term, however, it is thought that the operational reorganization of ports will result in more jobs being created¹¹.

6. Transparency

6.1. The ESC agrees with the view expressed in the Communication that greater transparency is needed, but at the same time notes the need for transparency to be imposed on all links in the transport chain (road and rail transport, ports, maritime transport, river transport).

6.2. Specifically for ports, it must be made clear which tariffs and subsidies affect the port services proper and which concern other services. Ports must operate competitively, given that indirect subsidies exist. In parallel, it is necessary to strengthen the role of ports in the trans-European networks, since for the moment the ports are the "poor relations" in those networks¹². River ports will also have to be incorporated into trans-European networks.

6.3. It is equally necessary to determine what direct or indirect subsidies go to the other transport modes, so that competition between modes is not distorted by differences in costs caused by different degrees of official financial support. The underlying principle should be that each mode pays its full costs. Cross-subsidization of transport modes must be discouraged. This argument is developed particularly in the ESC Opinion on the Green Paper on the Impact of Transport on the Environment: a Community strategy for sustainable mobility¹³. It is also developed in the ESC Opinion on aids for transport by rail, road and inland waterway (Regulation 1107/70)¹⁴. The ESC understands that the recent Green Paper on the fair and effective pricing of transport will help achieve this.

6.4. The ESC regards as very positive the conclusions of the Council of Ministers for Industry (6 November 1995) on transparency and state aids. In particular, attention is drawn to the fact that the various EU policies (including transport policy) will be reviewed in connection with monitoring of state aids.

7. Statistics

7.1. The use of turnaround time in ports as a statistical criterion for comparing port productivity can produce misleading conclusions. This approach ignores the fact that short sea ships spend a greater proportion of their time in port than do ocean-going ships, on

¹¹ Sept./Oct. Bulletin 1995 - Netherlands Ministry of Transport.

¹² OJ No. C 397 of 31.12.94, p. 23

¹³ OJ No. C 313 of 30.11.92

¹⁴ ESC Opinion CES 1316/95, 22.11.95.

account of the normally shorter sea distances and the more frequent loading/unloading in ports.

7.2. In general, the available statistics on short sea shipping are of low quality. Producing improved statistics should not however involve excessive burdens or costs for the firms supplying the data concerned.

8. Subsidiarity

The proposed integrated policy fortunately covers the subsidiarity principle i.e. the division of responsibilities at national and Community levels. However, efforts must be intensified to ensure energetic participation by the regions as well in order to achieve a better result. This could be achieved by involving the regions in the Round Tables.

9. Sea-transport strategy

9.1. The ESC hopes that the Communication will be followed up, and that the short sea sector will receive due attention in the expected Commission document on sea-transport strategy.

9.2. The Communication aims to stimulate further discussion leading to legislative measures. Although the Communication achieves what it sets out to do, the ESC thinks it is now time to move on to the next stage. More action, less discussion. It is practical solutions which are needed, not more grand declarations. The Commission's enthusiasm for relieving traffic congestion through short sea shipping must be translated into specific measures which must form part of a broader transport policy. If appropriate steps are not taken, in a few years mobility will not be sustainable and an impasse will be reached. Shifting goods transport from land to sea routes is a complicated question, and its implementation depends on many factors. In view of the difficulty of the operation, the ESC would stress the contribution which the principle of subsidiarity can make to its success.

10. Specific comments

10.1. Annex III, point 4. "Difficulties in competitive pricing" applies only to liners. Non-liner transport usually has the opposite characteristic, i.e. high load factors and exceptionally competitive freight rates.

10.2. In Annex III.B.2. "Port charges", the basic observation that short sea shipping is subject to disproportionately high port charges is correct. The ESC agrees entirely with the stress placed on reducing them. However, the difference mentioned between port costs per container in Northern and Southern Europe is not representative of the variations affecting bulk transport. For instance, the charges at a port on the west coast of Britain can sometimes be three or more times those at a Mediterranean Spanish port.

11. Conclusions

11.1. In the light of the above, the ESC thinks that urgent attention must be given to the following:

- enabling short sea shipping to compete on equal terms with the other transport modes through transparency of subsidies and future internalization of external costs; the role of the European Commission in defining and implementing this idea will be crucial;
- full integration of short sea shipping in the trans-European networks as an equal partner with the other transport modes;
- working out practical solutions to administrative problems affecting short sea shipping (e.g. customs/transit procedure);
- upgrading the role of small and medium-sized ports to relieve congestion in large ports and main roads;
- improving and expanding the study of the eight trade corridors;
- a clearer image of short sea shipping as a commercially attractive alternative mode of transport;
- continuing support for and coordination with the MIF Short Sea Panel and support for the work of the Round Tables;
- concentration on the social dimension of the short sea sector (and especially on training).

11.2. To achieve the above, it is necessary to draw up a list of priorities and introduce continuous monitoring of the relevant actions, with close cooperation between the Commission, the Member States and the MIF Short Sea Panel.

Done at Brussels, 31 January 1996.

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of the
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