

structural competitive position of EU shipping. Specific reference was made to the positive consequences of the tonnage tax system of the UK. These positive elements would play a role in the discussions on the extension of the guidelines.

Vice President de Palacio underlined the importance of a constructive, ongoing communication and consultation, with mutual respect between the Commission and the maritime industry. She felt that an organisation like ECSA has a major and indispensable role to play in this respect.

COMMISSION SERVICES

Mrs. Georgette Lalis, Director maritime transport at DG TREN, has left the Directorate. Mr. Fernando de Esteban is taking care of the Directorate until a successor has been appointed. ECSA wishes to thank Mrs. Lalis for the excellent co-operation during her term.

WEBSITE

An ECSA website has been opened and is accessible by clicking on www.ecsa.be
The ECSA Newsletter is also available on the web.

ECSA VIDEO ON EUROPEAN SHIPPING

ECSA has produced a 15 minute video presentation on European Shipping. Copies can be obtained at the ECSA secretariat at the price of € 10.-.

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In the context of the EU-India Cooperation programme, a 3 year joint maritime project on ports management, operations and trade facilitation (customs procedures) has been launched, notably directed at JNPT and Chennai. ECSA and the local EU lines representatives are closely involved in the planning and development of the project, to be carried out by consultants under the auspices of the Commission and the Indian Ministry of Shipping.

Enhanced Coordinated Approaches

ECSA is intensifying at national level its contacts and coordination with Member States Ministries, Embassies as well as with the Commission services, involved in relations with third countries. Especially towards Developing Countries, it is important that the message gets through that an efficient transport chain involving ports, inland transport and maritime transport are crucial to external trade and economic development. This task cannot be carried out by ECSA alone but requires concerted actions between donors, diplomatic missions and also the World Bank and the IMF.

EUROPEAN PARLIAMENT

Rapporteurs appointed for the Erika II proposals.

Mr Dirk Sterckx (Belgian Liberal) for the Reporting Systems proposal; Mr Emmanouil Mastorakis (Greek Socialist) on the establishment of a Maritime Agency; Mr Alain Esclopé (French Europe of Democracies and Diversities Group) for the Compensation and Liability proposal. ECSA will be seeing the Rapporteurs in the coming weeks to explain the industry's position on the different proposals.

Loading and Unloading of Bulk Carriers.

In February, the EP adopted a Resolution on the Commission's proposal. This followed political agreement on a text

being reached by the Council in December. The Swedish Presidency will now have to consider the EP's views to see the extent that they can be accommodated.

Committee on Safe Seas.

In February, the EP adopted an opinion which essentially endorses the Commission's proposal to establish a single Committee on Safe Seas as a replacement for different existing Committees. This contrasts somewhat with the Economic and Social Committee that has made some criticism in relation to the proposed mechanism in the context of amending international instruments. The issue will now be considered in Council.

ECSA BOARD MEETING 7 MARCH

The ECSA Board of Directors met on 7 March in Brussels. Main discussion points were the ERIKA I and II proposals, the Commission Communication on Ports and Port Services, maritime external relations, etc. on which we reported above.

The Board dinner was attended by Vice President Loyola de Palacio. In her address to the Board Mrs. de Palacio referred to the on going work of the Commission, which in the last year has mainly concentrated on maritime safety. In this respect reference was evidently made to the ERIKA I & II Communications. The Vice President stressed the importance of an international regime on safety and environment through the IMO. In the absence of appropriate action by the IMO the EU had, however, no other option than to act.

Whilst the last year had been dominated by the ERIKA packages, she felt that other issues now also deserve priority attention, such as maritime external relations (including WTO), the overall EU transport Policy and the role of maritime transport (short sea shipping), the Commission's Port Package and the competitive position of European shipping. On the latter subject, she stressed that the State Aid Guidelines are important to safeguard the

Liability and Compensation of oil pollution

The most complex part of the Commission ERIKA II Communication is the proposed establishment of a European third tier damage compensation fund to provide additional compensation if the first two tiers (CLC and FUND) would be exceeded.

Following the recent decision to increase the compensation levels in both CLC and FUND it would appear that, on the basis of past experience, the vast majority of spills would be adequately covered in the future, probably the highest part of which by the shipping industry and its insurers.

Adequate compensation for exceptional cases should, however, also be available. In this respect the philosophy of the Commission proposal has its merits. However, the amount of one billion € as proposed by the Commission, would be excessive since it would exceed more than twice the amount needed to cover extreme cases.

As recognised in the Commission Communication, the settlement of claims through IOPC (CLC and FUND) has worked well over the years, to the satisfaction of the claimants and the parties involved. Therefore, the industry is of the opinion that any supplementary scheme should be administrated by IMO's IOPC Fund. The philosophy of the Commission proposal is to establish an optional third tier financed by the oil receivers. ECSA has much sympathy for such an approach. The vice being with the cargo. ECSA is exploring with the oil industry if an industry solution could be agreed, based on such a tier in IMO to which oil importers of those states wanting additional compensation should contribute.

MARITIME EXTERNAL RELATIONS

WTO / GATS

In Geneva, guidelines for negotiations in trade in services are being discussed quite intensively as preparation for the next Council on Trade in Services (CTS)

Special Session and stocktaking to be held later in March. The aim is to have the guidelines adopted at this meeting but, so far there are still a number of points where different groupings disagree. The drafting has been done while trying to involve Developing Countries' views and interests as broadly as possible, without compromising other objectives. Discussions are likely to be lengthy.

A key point raised by EU, Japan, Uruguay and others has been to allow for a substantial discussion on sectoral negotiating that some members have submitted. The option seems to be the May and July CTS-Special sessions. Proposals have been submitted to the WTO by the EC, Japan, US and some smaller countries. The EC and Japan included transport and maritime transport specifically. The US did not include transport at all. More proposals are expected before the inventory exercise is to start. Although the proposals submitted now represent over 60% of world trade in services, the question can be posed if a sufficient critical mass in terms of participants will be arrived at.

On March 8-9 "Quad" members (EC, US, Japan, Canada) meet in Washington to discuss the state of play for services. On 9-14 November the 4th WTO Ministerial Conference will be held in Qatar. Here it should become clear whether there is a realistic chance of coming to a comprehensive Round as promoted by the EC and several others, but meeting with much suspicion from others. One should probably not expect any negotiations on services to start until after this conference.

Bilateral Agreements

Since the Council Mandate of 1998 for the Commission to enter into negotiations on bilateral maritime agreements with China and India respectively, both countries have now confirmed their preparedness to start the necessary technical discussions on the agendas and objectives during first half this year.

endorse the Council's texts as soon as possible.

Phasing out of single hull tankers

As regards the third element of the Erika I package, the accelerated phasing out of single hull tankers, ECSA remains confident that final agreement on a new regime will be reached in IMO in April. This will pave the way for an international regime to be put in place that reflects the approach of both the European Parliament and Member States.

ERIKA II

Since the adoption of the three proposals by the Commission in December, as described in the last Newsletter, ECSA has been examining the contents and has produced detailed, broadly positive, commentaries to feed into the legislative process. Copies are available on request, the outlines of which are set out below.

A Community Monitoring, Control and Information System for Maritime Traffic

ECSA shares the goals of the proposal and endorses the role of the Community legislation in ensuring that internationally agreed rules are properly enforced. The ECSA view that the standards themselves should be agreed internationally is reiterated and attention drawn to the two elements of the proposal where there is some inconsistency in this regard.

This relates to the fitting of Voyage Data Recorders (VDRs) to existing ships, in relation to which the Conclusions of the December Transport Council "calls on Member States to pursue their efforts within the IMO", and to the introduction of Automatic Identification Systems (AIS) for ships calling at EU ports.

The concept introduced into the proposal of empowering shore authorities to prohibit ships from leaving port is not considered appropriate and the practicality of providing information on bunker fuels is questioned.

Without detracting from the value of the proposals, ECSA also would emphasise that the proposed system cannot achieve its purpose unless coastal Member States fulfil their obligations set out in the Directive in a timely and efficient manner.

Strong support is given to the establishment of ports of refuge. The recent worrying experience of the "Castor" has emphasised the urgency of this issue.

Establishment of a Maritime Safety Agency

The goals of strict and uniform enforcement of maritime safety and pollution prevention rules within the Community, aims fully shared by ECSA, have been difficult to achieve in practice due to the unprecedented amount of legislation in the field in the last decade. It is appreciated that the proposal to establish a Maritime Agency is largely aimed at addressing these shortcomings. There are clearly competence related issues that are primarily for Member States to consider and, at this stage, there are different views both within the industry and between Governments as to whether the Agency is the most appropriate vehicle to address the issue.

If it is agreed that it is the way forward, ECSA would wish to see the stated aims of the Agency being fully adhered to in the short and long term. Specifically, it should provide expert technical assistance to ensure a high, uniform and effective level of maritime safety and pollution prevention through the proper application of legislation. What is important is that it does not develop a political or semi political role by, for example, seeking to represent Member States in the IMO or other fora.

ECSA has also argued that the Agency must complement, and not undermine, the role of the flag state, and there must be clear terms of reference to ensure that any potential clashes of competence between Member States and the Agency are avoided. ECSA's detailed comments on the text are aimed at ensuring that these principles are achieved.

- IMO FAL Form 1, General declaration
- IMO FAL Form 3, Ship's Store Declaration
- IMO FAL Form 4, Crew's Effects declaration
- IMO FAL Form 5, Crew List
- IMO FAL Form 6, Passenger List (ships carrying max. 12 passengers)

IMO FAL Form 2, Cargo Declaration is not included in the proposal since that document is already commonly replaced by largely standardised cargo manifests which serve both commercial and authority purposes.

The Commission proposal follows up on the repeated recommendation in the Maritime Industries Forum (MIF) for mandatory implementation of the FAL Forms by Member States. The Directive only imposes FAL Forms in the case where the subject information is required by the authorities; it does not impose the collection of the subject information. Although notably directed at simplification of procedures for promoting Short Sea Shipping, this measure will be applicable to all shipping, including deep-sea. The release and wide implementation of the IMO FAL Compendium on facilitation and electronic business, containing the EDI messages for these clearing forms as well as the related user guidelines, would certainly further improve this measure.

This Commission proposal is to be welcomed and supported, but a call for subsequent further trade facilitation measures would seem justified as several obstacles remain in place. Particularly in relation to EU Short Sea Shipping, the principle of free movement of goods, persons, services within the single market is not yet a reality.

SHORT SEA SHIPPING

The Promotion Bureaux for Short Sea shipping met on 7 March in Brussels in a co-ordination meeting organised by the European Commission services (DG TREN). A small delegation of the MIF (Maritime Industries Forum) attended to

explain the ongoing work on short sea shipping.

The Promotion Bureaux had a very useful exchange of views on their activities on a national basis. Best practice examples will assist the new Bureaux in the setting up of their activities.

The Commission services explained their recent initiatives related to short sea shipping such as the recent Communications on the use of FAL Documents and on Ports and Port Services. Attention was also drawn to the action taken on the bottleneck exercise.

Net working between the different bureaux will be gradually developed.

ERIKA I

Port State Control and Classification Societies

As described in the December Newsletter, "common positions" were reached by the Council in December on the proposed directives relating to the port state control regime and to the supervision of classification societies. In mid March the European Parliament will begin the process of deciding whether the texts agreed by Member States are acceptable in view of their report on the original Commission proposal.

ECSCA has closely examined the Council's position and believes that they will introduce a significant tightening up of the PSC and Class arrangements and should make a major contribution to the fight against substandard shipping in EU waters. The tough provisions relating to the obligation on Member States to refuse ships' access to ports under certain conditions are particularly significant.

In this context and against the background of the recent tragic accident off Spain, the industry believes that it is important that the measures enter into force in the near future. As a consequence, ECSCA has written to MEPs stressing the importance of the measures and urging them to



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COMMISSION COMMUNICATION ON PORTS AND PORT SERVICES

The Commission adopted on 13 February its long awaited Communication on Ports and Port Services under the title "Reinforcing Quality Service in Sea ports: A key for European transport". The Communication has three main chapters: Seaports and TEN-T, Access to the market of Ports Services and Public Finances and Seaports.

- Seaports and TEN-T: This chapter makes reference to the Commission proposal to integrate nodal points (ports) in the Trans European Network.
- Access to the market of Ports Services: This is the key chapter of the Commission Communication and will consequently receive the most attention of all parties involved. The aim of the proposed Directive is to further liberalise the different port services i.e. techno-nautical services (pilotage, towage, mooring), cargo handling and passenger services. As mentioned in the Communication ports and port services play a crucial role for European transport and for intra and extra Community trade. Liberalised, efficient and quality services are therefore essential.
- Public Finances and Seaports: The Commission feels that the results of the inventory on public finances and services in ports is providing unsatisfactory information. The Commission therefore believes that the application of the Transparency Directive 2000/52 on the financial relations between Member States and public undertakings should be applied. This is to be combined with a legal requirement to keep separate accounts to be introduced as part of the proposed Directive on access to the market of port services. According to

the Commission there is at this stage no need to consider State Aid Guidelines for ports. This will be dealt with on a case by case basis and the Commission will continue to give guidance.

The Commission Communication, including the proposed Directive on Port Services, will now go through the usual process within the EU Institutions.

ECSCA welcomes the Commission Communication and hopes that it will assist in creating an attractive and competitive place for maritime transport in the overall supply chain. In respect of the main chapter "Access to the market of Port Services" the shipping industry is pleased to note that the basic principles submitted by ECSCA in 1998 as a follow up to the Green Paper on Ports, such as on open markets, free and fair competition between and within ports, no imposed services, fair and transparent pricing, abolition of outmoded labour practices, have to a large extent been taken into account.

The ECSCA Working Group on Ports and Port Services will study the Commission proposals and comment as appropriate. ECSCA looks also forward to a constructive dialogue with the Community Institutions and with the industry parties involved in ports and port services.

COMMISSION COMMUNICATION ON FAL FORMS

Mandatory use of IMO FAL Forms for ships clearing

On 7 February the Commission published COM (2001) 46 final, proposing a Directive to impose the use of the IMO FAL forms for the clearing of ships upon entering and sailing of EU sea ports. The proposed Directive covers: