

EUROPEAN ECONOMIC AREA
STANDING COMMITTEE
OF THE EFTA STATES

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SUBCOMMITTEE II ON FREE MOVEMENT OF CAPITAL AND SERVICES

**EFTA COMMENTS ON THE COMMISSION COMMUNICATION
“TOWARDS A NEW MARITIME STRATEGY”**

1. The Member Countries of EFTA welcome the Commission Communication “Towards a New Maritime Strategy” of 13 March 1996. The future of European maritime industries is of importance to the EEA EFTA -States both as nations with major maritime interests and as users of maritime transport services. On this basis, and in light of the potential EEA relevance of the issues involved, the EFTA States would appreciate to be involved as closely as possible in the further follow-up the strategy document. At this stage EFTA would like to forward the following comments on the Communication.

I THE BASIC APPROACH

2. It is the view of the EFTA States that the Communication provides a renewed and well founded framework for further development of a Common European maritime policy. The EFTA States particularly associate themselves with the Communication’s realistic points of departure:

- (a) The desirability of “preserving” a European shipping industry and its maritime know-how, does not stem solely from the shipping industry alone, but is equally relevant in terms of the added values it provides for related economic activities. This acknowledgement should help to shift the focus of future policies from the promotion of a European flagged fleet alone over to more active *promotion of the overall contribution* from maritime industries to the European economies.
- (b) The industry is truly global in nature. The main competition for European operators stems from overseas and from Asia in particular. Consequently, there is little merit in a European shipping policy which does not address *the competitive handicap* of European operators vis-à-vis competitors world wide.
- (c) Different Member States will have differing needs - both in magnitude and in their choice of policy tools to apply. *Flexibility for the Member States* in

application of state aids, manning policies, shipping registers etc., in exchange for more harmonised Community standards both within the field of safety and state aids, therefore seems to be a constructive way forward.

3. Consequently, the EFTA States support the withdrawal of the EUROS proposal. Harmonisation on a European level of crew requirements and support measures as contained in that proposal failed to address adequately the competitive handicap of European maritime industries.

4. The EFTA States appreciate that there are some merits in the Commission's suggested "three pillar approach". However, considerable caution should be exercised so that potential conflicting goals and interests do not get mixed up. The EFTA States would particularly point at the Commission's link between the fight against substandard operators and the competitiveness of European shipping. Although a link does exist, the borderline between genuine and justifiable safety and environmental standards and regulations on the one hand, and what could become regional "technical barriers to trade" on the other, should be watched carefully. A similar word of warning should be voiced concerning the proposed revision of the anti-dumping rules of EC Reg.4057/86.

5. More specifically the EFTA States would like to make the following comments to the three main areas ("pillars") of the Communication.

II SAFETY AND ENVIRONMENT

(a) Eliminating substandard shipping

6. The EFTA States share the Commission's goal of eliminating substandard vessels, operators and crews from European waters, and believe that the Community's Safe Seas policy has provided valuable contributions to that aim. The policy founded on active European participation in the IMO (and other relevant international bodies), combined with mandatory European implementation of the internationally agreed rules, should be continued.

7. Furthermore, EFTA can support the increased efforts for uniform application of the port state control Directive in order to improve the effectiveness of this instrument. In this context the EFTA States agree that an extension of operational links with port state control regimes in other countries and regions is important.

8. Considerable caution should be shown, however, concerning the idea of introducing financial sanctions on ships which are detained by the port state control. Such a system could easily spur equivalent, but less predictable and transparent systems in other regions of the world.

(b) Reinforced role for the flag state

9. In order to preserve a coherent global framework which is vital to international shipping, it is equally important, however, to reinforce the role of the flag states. The EFTA States therefore welcome the Strategy document's renewed emphasis on the necessity to improve the quality of certain flag state regimes. Within the context of IMO's Flag state Implementation Sub-Committee, the EFTA States would therefore support the idea of developing a binding international instrument with general flag state obligations that must be adopted and enforced at a world level.

(c) Criteria for Member States registers

10. When adopted, such international rules could also form the basis of a possible Community legal instrument defining minimum criteria for Community registers. Likewise, the development of any Community rules in this field should refrain from introducing particular criteria concerning working conditions etc. These should all be established from standards agreed through international bodies such as ILO and IMO. The development of more specific and possibly tighter rules, should be left to the individual Member State to decide. Combined with an adequate state aid policy and incentives for training and employment of Europeans, such a flexible and international approach to Community registers is likely to promote an increased use of the European registers.

(d) The role of the classification societies

11. In connection with the need for a reinforced role for the flag states, the EFTA States would once again like to highlight the important role which can be played by classification societies acting on their behalf. It could be questioned, however, to what extent it is necessary for each and every flag state to possess the necessary expertise and capacity in order to monitor and quality assure classification societies for this purpose.

(e) IMO resolutions

12. As a consequence of their general support for a continuation of the current safe seas policy, based on i.a. the principle of uniform implementation of IMO rules through Community legislation, the EFTA States will be ready to discuss the idea of transferring certain non-binding IMO resolutions into binding Community legislation.

13. However, the fundamental approach of the EFTA States will be that such a policy might turn out to be counterproductive, particularly if these standards are to be monitored on third country vessels through port state control. In the view of the EFTA States there is a real risk that the potential of a non-binding IMO resolution becoming binding through Community legislation might have a restraining influence on

negotiations in the IMO. A likely result could therefore be that instead of a non-binding resolution one might end up with nothing. Such a result would constitute a significant step backwards. In this context the EFTA States would also like to point at the importance of non-binding IMO resolutions and recommendations as a first step in an international (global) consensus building process. Such tactical elements should not be underestimated. The EFTA States would consequently rather propose as an alternative strategy that European countries work towards IMO in order to have the relevant non-binding IMO instruments transferred into binding IMO resolutions.

(f) Crew nationality requirements

14. The EFTA States fully share the Commission's goal of promoting a higher proportion of European seafarers on board European controlled vessels. On this basis the EFTA States take note of the Strategy paper's suggestion that the best way to reach the aim is not through stringent nationality requirements on a European level. At the same time, European States must address the fact that there might be a shortage of qualified seafarers (officers) in the future. In many European countries the industry is entering a phase where there will be increased demand and less supply of seafarers. Under such a scenario European policies should be developed on the following basis:

- (i) Significant and commercially viable ship operations by European companies will in the future depend on the availability of both highly qualified European as well as non-European seafarers.
- (ii) Recruiting, training and lifelong career plans must therefore address the fact that in many cases future ship operations will be multinational, but combined with an increased demand for Europeans. These Europeans will probably to a growing extent be recruited in order to serve only a portion of their career at sea before further employment in the shore based part of European maritime industries.
- (iii) Even though the relative competitiveness of European labour is likely to improve through such a scenario, a substantial cost handicap is, nevertheless, expected to remain. This handicap could be addressed through particularly designed programmes of aid.

(f) Increased responsibilities for cargo owners

15. The Commission's suggestion to elaborate on possible instruments which could put increased responsibility on cargo owners for choosing quality tonnage, is interesting and merits further thought. It should be said, however, that at this stage it is difficult to envisage any system which would not create considerable legal as well as practical difficulties. In any event it is necessary to avoid the introduction of yet another demanding control regime which could also contribute to further undermining of flag state obligations.

(h) Regional standards

16. The EFTA States agree that regional standards might be accepted, in particular in the area of passenger ferry safety, provided that it can be established that the markets concerned are strictly regional.

17. EFTA States are, however, sceptical towards the idea of establishing unilateral/regional rules regarding working time on third country ships calling in European ports. Furthermore, the EFTA States are sceptical about introducing measures “to other vessels providing sensitive services on specific routes to and from Community ports”. Such rules could easily be used for protectionist purposes.

(i) Co-operation within the EEA - The Agreement's Protocol 19

18. The EFTA States would like once again to reiterate their readiness to co-operate closely with the EU in order to make further progress in the field of safety and environment at sea. Since further development of Community legislation and policies per definition involves considerable co-ordination towards international organisations such as IMO and ILO, the EFTA States would like to point at the potential which still exists in a more active use of Protocol 19 of the EEA Agreement. In this field both sides should have all to gain by the closest possible co-operation.

III A POLICY FOR COMPETITIVENESS - STATE AID

19. In general, state aid and support measures to industries should be kept at a minimum as we are all aware that they have the potential for creating distortion of competition and inefficiencies in the economies. However, as described by the Commission, such measures can have a significant role to play in order to maintain and develop the shipping industries and overcome cost handicaps as compared with competing non-Community operators.

20. The EFTA States accept that there is a need for guidelines to direct and focus such measures. However, as the Commission correctly has described, different national priorities have determined the structure of support measures given by national governments reflecting the nature of the shipping economy of the individual member country. In addition, the possibilities for the shipping industry in most EEA countries to use various flags of convenience, and to some extent to divert the income generating part of shipping companies to various tax havens, to a large extent has established the yard stick to which national policies and measures will have to adapt. Recognition of this fact and the wish to maintain the core economic activity of the shipping industry (employment at sea and the various shore activities) in addition to strategic control and safety and environmental considerations, will inevitably create pressure for equivalent and flexible national measures. Consequently the more theoretically inspired discussions of limiting state aids to shipping activity flying the flag of member states should be avoided, as the flag itself as the Commission rightly has observed, is no

guarantee for arriving at desired policy objectives. The guidelines for State aids should therefore reflect the need for flexibility also on this aspect, and more generally as stated by the Commission accommodate differences in the priorities and approaches of the Member States while ensuring that competitive distortions are kept at a minimum.

21. The EFTA States would also like to draw attention to the work which the Maritime Transport Committee of the OECD has launched in order to make a thorough study of existing national support measures and if possible to establish a more harmonised approach within the OECD framework. By including the larger shipping economies on the other continents, we hopefully will get a more informed perspective in which the European and national measures could be seen. As the shipping industry by nature is exposed to global competition and the assets are literally floating around, it goes without saying that harmonisation on a European level will not address the issue in a relevant manner. Without addressing support, cost, and tax levels outside Europe, we could easily face a situation where we will have established elegant European guidelines but only a limited fleet to apply them to.

22. The Commission will be aware that the revised guidelines which the Commission currently is discussing with the Member States will also have a direct bearing on the scope for such measures in the EFTA countries through the EEA Agreement. It is therefore suggested to establish corresponding close co-operation between the Commission and the EFTA States through the relevant mechanism provided for in Part VII ,Chapter 2,and Protocol 2 of the EEA Agreement.

IV MAINTAINING OPEN MARKETS

Basic approach

23. The EFTA States agree that free market access and fair competition should preferably be secured by a multilateral approach through GATS. The EFTA States therefore share the Commission's regret that no positive result has so far been possible within the context of the WTO. Such a solution should, however, not be abandoned as a long term goal.

24. In the meantime the EFTA States can see merits in a more high profile Community approach to external relations in maritime transport. Based on its free market approach as outlined in the Communication, the Commission has a constructive role to play in this regard. Again the EFTA States would like to point at the desirability of a more active use of Protocol 19 to the EEA Agreement.

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