



# ECSA Newsletter

## European Community Shipowners' Associations

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### **ECSA ANNUAL REPORT 2008-2009**

ECSA President Marnix van Overklist together with Vice President Juan Riva and the ECSA secretariat presented the ECSA annual report 2008-2009 to the press on Tuesday 22 September 2009 in the ECSA Office.



The annual report was also presented on 23 September to Commission Vice President and Transport Commissioner Antonio Tajani during a constructive exchange of views.

The key points are summarised hereunder.

### **EUROPEAN SHIPPING IN A GLOBAL MARKET**

In September 2008 on the occasion of the presentation of previous ECSA Annual Report we referred to the turbulence on the financial markets and its possible effects on trade and shipping.

Regretfully our fears have become reality with the financial crisis which turned into a crisis of the real economy. Combined with an overcapacity on ships in many sectors the crisis for shipping is even much more serious than expected.

Whilst we hope for a revival of the economy we seriously warn against all forms of protectionism that would delay a return to healthy economies. Order must be created in the bank sector and

speculation in building ships for which there is no economic necessity should be avoided. At the same time we advocate financing of healthy projects and of trade itself.

European shipping maintained last year its global leader position controlling 40 % of the global merchant fleet. The average age of EU ships is 9,7 years.

### **EUROPEAN MARITIME TRANSPORT POLICY 2009-2018**

#### ***A Maritime Transport strategy for the next decennium***

The last year announced Commission Maritime Transport Policy or Strategy Communication was eventually issued in January 2009. The comprehensive strategy paper touches upon a wide range of basic elements such as: the competitive position of European shipping in global markets, human resources, seamanship and maritime know how, quality shipping as a key competitive advantage, working together on the international scene, exploiting the full potential of short sea shipping and sea transport services for business and citizens in Europe and Europe as a world leader in maritime research and innovation.

This Strategy Paper is welcomed. Though the main parts of it have been written prior to the financial and economic crisis the principles expressed in it are very valid in these difficult times. It is encouraging to note that the Commission confirms that the present leader position that European shipping has globally should be maintained through an appropriate operating framework of the state aid guidelines that have to be maintained for a longer period.

As mentioned above the Maritime Strategy Paper covers most of the items that we

deal with in this Annual Report and on which we comment in detail below.

### **HUMAN RESOURCES AND MARITIME KNOW HOW**

The Maritime Transport Strategy Paper draws attention to the shortage of highly qualified seafarers and the necessity to act on it. In this context the ECSA Membership is heavily involved in promotion campaigns to attract young people to a maritime career often in close cooperation with the national unions of seafarers.

ECSA has the intention to organise a workshop on promotion activities allowing analysis and use of best practices.

The issue is also dealt with in the Social Dialogue between ECSA and ETF. Other issues dealt with between the Social Partners are health and safety matters, piracy, the revision of STCW, and fatigue on which an EU funded study is in process.

As a follow up to the Strategy Paper a Task Force will be established later this year with as task to find a balance between employment conditions of seafarers and maintaining the competitiveness of European shipping. It is evident that the global character of shipping has to be taken into account. The ratification of the ILO Maritime Labour Convention will contribute to create a global level playing field.

### **SAFETY AND ENVIRONMENT**

The adoption of the Maritime Safety Package III early 2009 has been welcomed by the industry. ECSA views the Package as a balanced set of measures the implementation of which will further improve maritime safety.

Most attention is now going to ship emissions. On Sulphur amendments to MARPOL Annex VI were already agreed in October 2008. In the process on the revision of the relevant EU Sulphur Directive different impact assessments are being made. Particular attention has been drawn to the serious risk of a modal shift

from transport over sea to transport over land with the application of the 0.1 % sulphur content in the Emission Control Areas (ECAs) as from 2015.

On carbon emissions all eyes are now on the UN Conference taking place in Copenhagen in December 2009. Whilst technical measures are in process to further reduce carbon emissions of shipping most public attention is going to Market-Based Instruments (MBIs). Following detailed analysis ECSA has not expressed a firm preference for any specific MBI. However it has been made clear that shipping as a global business needs a global solution. The natural vehicle being the IMO. It should also not be overlooked that the industry has over the years done quite some efforts to reduce fuel consumption/CO2.

### **SECURITY – Customs**

Discussions on the application of an EU advance cargo declaration regime for all cargoes transported over sea have been going on last year.

However, the revision of the original legislation on the Community's advance cargo declaration took longer than expected and electronic systems to fulfil the obligations laid down in the legislation could not be implemented by the deadline laid down in Regulation 1875/2006, i.e. by 1 July 2009. It has therefore been decided to delay an essential part of the Community's advance cargo declaration regime, notably the mandatory application of the so-called entry and exit summary declarations, until 31.12.2010.

### **PIRACY**

#### ***A fragile situation needing ongoing efforts***

The Board of ECSA has on different occasions commended EU-NAVFOR for its operations off the Somali Coast/Gulf of Aden. ECSA is pleased to note that the mandate of EU-NAVFOR/ATALANTA has been extended until 13 December 2010. It is anticipated that the UN Resolution will also be extended for a further year.

The presence of the EU NAVFOR and of ships of several other navies has resulted in reducing piracy in the region. Particularly the sharing of information between EU NAVFOR with other forces such as of India, China, Japan and Russia is leading to a better coordinated approach. The cooperation between the different Naval Forces should be further enhanced.

It is realised that a key point is to improve living conditions and governance in Somalia. The European Commission/United Nations donor conference held in Brussels on 22/23 April 2009 is part of the ongoing efforts to support the way towards a normalised situation.

Notwithstanding the presence of naval armed forces in the area the piracy situation is fragile; therefore ongoing efforts are essential.

### **SHORT SEA SHIPPING AND CO-MODALITY**

Shipping and in particular short sea shipping services are a basic element in the EU policy of Co-Modality. Projects such as Marco Polo and TEN-T (Motorways of the Sea) contribute to enhancing the role of short sea shipping in the logistic chain.

The TEN-T are for review in 2010. In this context the shipping industry has stressed once again the necessity of improvements in port facilities and infrastructure and hinterland connections. It is hoped that the new TEN-T will take this into account.

The process towards a European Maritime Space without Barriers is long and often made more complex than it is in reality. Discussions are now concentrated on short term measures, in particular on the "authorised regular shipping status". Whilst the initial idea of the European Commission was to abolish this status, there is now an agreement in principle to maintain but to simplify the status by linking it to the shipping company rather than to the ship. Furthermore, the

exchange of information between the customs administration and the shipping company on the "authorised regular shipping status" would be done electronically and a shipping company would only have to communicate changes to one customs administration only.

ECSA hopes that the result of the Commission Communication on this European Maritime Space will eventually drastically reduce the administrative burdens for intra-EU cargoes.

### **EU ON THE INTERNATIONAL SCENE**

A free trading environment is essential for shipping as a de facto global industry. As mentioned above the economic and financial crisis makes it even more relevant to carefully watch and oppose any form of protectionist measures.

The EU Institutions are taking an increasingly active and pragmatic role in this respect through WTO, Free Trade Agreements, European Partnership Agreements, Relations with Africa and Bilateral Maritime Agreements.

The initiatives are fully supported and ECSA is contributing through industry input.

### **LEGAL ISSUES-ROTTERDAM RULES**

#### ***Global Rules essential***

Recently most attention has gone to the new UN Convention (UNICITRAL) now known as the Rotterdam Rules that will be signed in Rotterdam on 23 September following long negotiations starting in 2002.

The Rotterdam Rules will modernize the liability regimes that currently apply to the carriage of goods by sea, they will address the gaps that presently exist (e.g. by laying down rules on e-commerce) and they will regulate the multimodal carriage of goods that involve a sea leg.

ECSA believes that the Rotterdam Rules represent a last attempt to have a harmonized cargo liability regime at global level that will reduce conflict of laws

between the various jurisdictions across the world. Regional legislation is unworkable for global industries and attempts to revive such ideas should be stopped.

On this basis, ECSA has urged States, including all EU Member States, to ratify the Rotterdam Rules soonest.

### **PASSENGER RIGHTS**

The Commission Proposal on Passenger Rights for maritime services has been examined from both the ferry and cruise perspectives and it is clear that the 'one size fits all' approach of the initiative would cause practical problems for companies in a number of areas. In relation to ferries, there is a wide diversity of vessels, routes and geographical circumstances which justify some flexibility being incorporated into the text on the lines of 'where reasonable and practical'.

Account must also be taken of circumstances over which the operator has no control, such as weather, in relation to the obligations in the event of interrupted travel; there is a need also to ensure that ports, and not just carriers, take on responsibility for providing assistance for persons with reduced mobility (PRM).

This latter point is equally valid for the cruise sector, in relation to which it is crucial that PRMs provide information on their needs at the time of booking if their requirements are to be properly catered for during their voyage. It is also important that the cruise operator has the ability to make an assessment on whether the carriage of a passenger would put at risk the health and safety of that passenger.

These and other detailed points have been raised in both the European Parliament and Council during the legislative process.

### **THE FUTURE WORK AGENDA**

This short review of the ECSA Annual Report makes it clear that some key items are on the agenda for the coming months particularly ships' emissions and the follow

up to the Maritime Transport Strategy Paper 2009-2018.

We will also be faced in the next months with many changes. A new Parliament has now been composed and a new Commission will be appointed soon. In a period of crisis we need the right political decisions and a vision for the future. As I mentioned good principles have been put down in the Maritime Transport Strategy 2009-2018. Let's build on them now.

We look forward to continue the cooperation with the European Institutions: the commission, Member States and the European Parliament.

**The new annual report can be directly downloaded from the website:**

<http://www.ecsa.be/annualreport2009.asp>

### **EUROPEAN COMMISSION**

***Mr Barroso appointed for a second mandate as Commission President***



On 16 September, the European Parliament approved the nomination of Mr Barroso for a second term as Commission President. Mr Barroso was elected by 382 votes in favour, 219 against and 117 abstentions, in a vote held by secret ballot. The approval required a simple majority of the votes as the vote took place under the rules of the Nice Treaty.

Mr Barroso can now start assembling his new Commission team. Candidate Commissioners will be selected in October and will then go before the European Parliament for hearings in November. The confirmation of the candidate Commissioners in the European

Parliament's Plenary session is expected to take place in December.

The composition of the new European Commission, in terms of number of Commissioners, will depend on the outcome of the Irish referendum on the Lisbon Treaty, which is scheduled on 2 October.

If Ireland would support the Lisbon Treaty, this treaty will enter into force on 1 January 2010 and the new European Commission will consist of 27 Commissioners, i.e. one Commissioner per Member State. However, if Ireland would reject the Lisbon Treaty for a second time, the new European Commission will no longer consist of one Commissioner per Member State. However, the exact number of Commissioners is unknown.



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**Press Release**

## **THE ROTTERDAM RULES**

### **Wide Support by States at Signing Ceremony in Rotterdam**

***Rotterdam 23 September 2009***

Today has been an historic step for the new UNCITRAL Convention on the Carriage of Goods (Wholly or Partly) by Sea. Indeed, no fewer than 15 States, including 5 EU Member States, have explicitly expressed support by signing this Convention at the occasion of a signing ceremony in Rotterdam. A number of other countries have indicated their intention to sign or accede to the Convention at a later date. The UNCITRAL Convention will, from now on, be known as the "Rotterdam Rules".

The signing of the Rotterdam Rules comes after the approval of these rules by the United Nations Commission on International Trade Law in July 2008 –

following seven years of intensive international negotiations and their adoption by the United Nations General Assembly in December 2008.

The International Chamber of Shipping (ICS), the European Community Shipowners' Associations (ECSA), BIMCO and the World Shipping Council (WSC) are very pleased with the significant level of support given by so many States, including EU Member States, the United States and many other States representing between them shipper and carrier interests. The reasons to sign and thereafter ratify the Rotterdam Rules are clear. The Rotterdam Rules will:

- Provide legal certainty and uniformity with regard to the carriage of goods by sea and connected transport. With about 90% of world trade being transported by sea on some 50,000 merchant ships that trade internationally and transport all types of cargo, shipping is a truly global industry that needs to be governed by widely accepted international rules;
- Modernise the liability regimes that currently apply to the carriage of goods by sea;
- Cover multimodal carriage of goods that involve a sea leg while respecting existing unimodal conventions which also regulate multimodal transports in some aspects;
- Address gaps that presently exist, including the important introduction of provisions to facilitate e-commerce;
- Strike a balance between the interests of shipowners and shippers in terms of liabilities and the allocation of risks between both parties, a feature that is recognised by shipowners and shippers, including major European shippers.

By signing the Rotterdam Rules today, the States are leading the way towards achieving international uniformity and will give strong encouragement to other States also to sign the new Convention. It is

hoped that by the same token, it will discourage those decision-makers contemplating national or regional rules on cargo liability which would seriously militate against the very purpose of the Rotterdam Rules, namely, to achieve real global uniformity.

But it is equally vital that all States, after signing the Rotterdam Rules, also ratify the convention soonest so as to ensure their early entry into force. This is imperative to obtain uniform, harmonised and modernised rules on cargo liability at international level. And it is the only way to avoid divisive and contradictory national and regional legislation.

**A rapid ratification of the new regime by major trading nations, such as the US, will determine the shape of international transport law for most important markets in maritime commerce and will pave the way to achieve the worldwide uniformity definitely needed in the 21<sup>st</sup> century.**

The opportunity presented by the Rotterdam Rules to establish international uniformity for maritime and multimodal transport of cargo, to the benefit of international and European trade and transport, must not be missed.

**ICS, ECSA, BIMCO, WSC therefore call upon States which have not yet signed the Rotterdam Rules, including some EU Member States, to sign the Convention and urge all States to ratify and apply these rules as soon as possible. There is no global uniform alternative for those seeking a real international solution.**

*September 2009*