

**Report of the Task Force on Maritime Employment and Competitiveness and Policy
Recommendations to the European Commission**

09/06/2011

Executive summary

The Task Force on Maritime Employment and Competitiveness (TFMEC) started to work in June 2010. Its objectives were to identify obstacles both to entry to the maritime profession by European youngsters and their recruitment by European employers and then to develop recommendations on the way to strike the *right balance between the employment conditions of EU seafarers and the competitiveness of the European fleet*.

The Task Force encountered major difficulties in finding reliable data and accordingly assessing the scope and scale of the problems. However, some clear trends on the increase in the recruitment of non EU seafarers for international voyages, especially at the expense of EU ratings, emerged. Despite recent improvements in some Member States, European officer recruitment and retention remains problematic, though this has been masked for the time being by the use of personnel from the new Member States.

The Task Force examined the current legal framework and made recommendations to complement it where needed, in particular, in the framework of the maritime exclusions review and the effective enforcement of international instruments while avoiding complicated legislation creating new administrative burdens. It was in favour of making better use of existing tools and programmes likely to promote the employment of EU seafarers.

Scope exists for the EU to promote more convergent systems for ensuring attractive initial training, entry to the profession, higher education and career development both in shipping and the broader maritime cluster. A flexible approach is needed based on a European level network of relevant stakeholders and authorities, MARINET, supported by similar networks at national level. More effective use should be made in this context of existing EU funds and instruments like Leonardo.

The State aid regime for shipping has proved to be of vital importance for sustaining both European shipping and seafaring and the Task Force unanimously supported the continuation of such a regime given the competitive international context in which shipping operates. Strengthening the employment conditions for the application of tonnage taxes was supported by some but opposed by others.

The Task Force analysed the factors turning EU seafarers away from the profession ranging from daily life on board and poor working and living conditions to the piracy threat, shore leave problems, abandonment and fears about criminalisation. It recommended to make efforts to remedy these problems notably by providing ready access to better communication technologies; facilitating shore leave; reducing and managing the administrative burden as well as ensuring commensurate protection against risks of piracy and guaranteeing fair treatment to reduce fears about criminalisation..

In the field of living and working conditions, the Task Force considered that the social partners at EU level, in close contact with the Commission, had a crucial role to play, while the Member States had to make their contribution by addressing issues arising from the way in which the regulatory framework impacts on life at sea and by ratifying and effectively implementing and enforcing the Maritime Labour Convention 2006 as a matter of priority.

The Task Force recognised the sensitivity of issues related to manning requirements and estimated that it was not appropriate to envisage new EU legally binding obligations for the time being, while relaunching the debates under the auspices of IMO would be desirable bearing in mind the need for of a level playing field at international level. A majority considered that it would be useful for Member States to have a clear legal basis in EU law for establishing manning conditions on vessels providing off-shore services in their waters.

The Task Force attached great importance to improved information and monitoring and made recommendations both on coordinated data collection and development of a comprehensive system to provide comparable information on maritime employment trends and issues in the EU.

Action to improve seafaring's image should avoid empty generalisation and focus on concrete actions taken to guarantee and improve the quality of life at sea and seafarers' career perspectives on board and on shore.

INTRODUCTION

1.1. The idea of a Task Force on Maritime Employment and Competitiveness

In its communication on the Strategic goals and recommendations for the EU's maritime transport policy until 2018 (COM 2009/8), the Commission proposed to develop a "maritime social agenda" and announced the creation of a Task Force on maritime employment and competitiveness (hereafter TFMEC or Task Force).

The Task Force was set up in 2010 and entrusted to contribute with valuable input and recommendations on how to combine the competitiveness of European fleets with a strengthened seafaring profession in Europe.

1.2. The composition of the Task Force

The Members of the Task force were appointed by Vice-President Kallas. The chairman is Sir Robert Coleman, former Director General of Transport at the European Commission.

The Task Force was composed of 12 additional persons participating in their personal capacity and drawn from 3 groups as follows:

- A group familiar with seafarers' concerns (3 people);
- A group familiar with shipowners' concerns (3 people);
- A group familiar with the concerns of the broader maritime cluster (6 people researcher, lawyers, manning agencies, maritime schools, etc.).

1.2.1. Members of the Task Force

Sir Robert COLEMAN:	Chairman, former Director General for Transport at the European Commission
Mr John BAINBRIDGE:	Official of the International Transport Workers Federation
Cpt. Patrick BLONDE:	Director General of the Antwerp Maritime Academy
Professor Patrick CHAUMETTE:	Founder of the Observatoire des droits des Marins at the University of Nantes
Mr Aigars GAILIS:	Former Marine Officer
Ms Maria Gloria GIANI:	Shipping agent and Chairperson of Women's International Shipping & Trading Association (WISTA)
Mr Erik HIETBRINK MSc:	Chairman and CEO of the STC- Group
Mr Torben JANHOLT:	President and CEO of J. Lauritzen
Mr Per-Erik NELIN:	Former President of the Association of Finnish Seafarers
Mr Andreas NEOPHYTOU:	Joint Managing Director of Marlow Management

Professor Helen SAMPSON: Director of the Seafarer International Research Centre of Cardiff University

Mr Georg T SMEFJELL: Head of Section, Statutory Department at DNV Norway

Cpt. Panagiotis TSAKOS: Founder of Tsakos Group

1.3. The Mandate of the Task Force

The mission of the Task Force was basically to sustain reflections in the Commission with a view to providing the latter with recommendations on the social aspects of the European maritime policy.

The Task Force had to focus on the relationship between employment in the maritime industry and competitiveness, encompassing topics such as labour market, the attractiveness of the profession, the maritime cluster's needs, training and qualifications and working and living conditions. It had to consider the possibilities offered by all maritime related industries providing revenues and jobs in Europe, while taking into account market cycles affecting the shipping industries.

The TFMEC was not supposed to carry out specific studies or impact assessments. It remained totally independent from the work of the Maritime Transport Social Dialogue Committee which has continued to perform its role.

1.4. The Working Method

1.4.1. Exploration phase

During this phase presentations were made (mainly from experts outside the Task Force) and documents containing statistics, and other information were distributed. The regulatory framework for shipping and State aid were also presented and discussed. The present report takes stock of those factual conclusions in the chapter on "Findings".

1.4.2. Elaboration of recommendations and conclusions

Based on the findings, the Task Force elaborated recommendations and conclusions. The TFMEC worked in a spirit of collegiality, endeavouring to reach consensus and coming to agreed conclusions as much as possible. However, divergent positions occurred in some matters and they have been reflected in the report.

1.4.3. Meetings

The task force met on 30 June 2010, 28 September 2010, 28 October 2010, 25 November 2010, 12 January 2011, 16 February 2011, 16 March 2011, 13 April 2011, 12 May 2011, and 1 June 2011.

1.5. Employment Trends

The Task Force has sought reliable statistics as a basis for discussions. Regrettably it has proved to be difficult to find accurate, complete and reliable figures on seafarers. The main reasons for this are the globalised nature of the shipping industry and its flexibility, including temporary employment which has become increasingly common. Keeping accurate track of certificates of competency delivered by the Member States is being undertaken by the European Maritime Safety Agency and will certainly be of great help in this respect, but it cannot entirely solve the problem. Indeed 100% complete and accurate statistics on seafarers probably represent an unachievable target, though more should be done both at the national and EU level to provide a more complete and accurate picture.

The Task Force found it necessary to ask the Commission to appoint an external consultant to gather, aggregate and update the existing statistics and other data on seafarers and on shipping-related onshore jobs. Inevitably some of these are approximations but some are still reliable enough to inform policy analysis.

The result of the work of the consultant¹ reveals that, if the total number of officers has broadly remained the same as ten years ago in Western Europe, some countries have lost a significant number of officers and the number of ratings has decreased in virtually all the Member States. More recently, in some Member States, there have been limited improvements in cadet entry and officer recruitment, probably linked to the improved attractiveness of their registers. During the same period, the number of Eastern European officers has increased, notably those from Bulgaria, Poland and Romania, where nevertheless a clear decreasing trend of ratings can be observed.

At a worldwide level, the study has confirmed a strong decline in the number of officers from western countries during the past fifteen years, compensated by an increasing number of officers from Eastern countries. This trend is mirrored in Europe, where a balance in the number of officers has been achieved by a significant number of new arrivals from the Eastern part of the continent.

2. FINDINGS OF THE TASK FORCE

2.1. Market access

International shipping is a global activity by nature, access to which has been open for a long time. Competition between shipping companies is equally global and very fierce. Assets are mobile and since the late seventies crews can and have been recruited from anywhere and indeed worldwide.

Within the EU, from the middle of the 1980s, market access was progressively liberalised for both external and internal trades. However, although liberalised, cabotage has remained an area where Member States may impose national rules to protect employment. Under Article 3(2) of Regulation 3577/92, in fact, Member States may apply national rules on manning to scheduled transport to/from/between islands. The Commission has explicitly recognised that those rules may require crews to be entirely composed of EU nationals: most southern Member States have used this possibility, also in markets where the competition between different operators is very active.

In this respect, it should be recalled that in 1998 the Commission put forward a legislative proposal to require that EU working conditions should apply to seafarers working onboard ship engaging in scheduled passenger and ferry services between the ports of Community (in the proposal known as the "manning directive")². If adopted, this proposal would have implied that in intra-Community ferry trades the cost of non-EU crews would have been closer to that of EU crews. As a likely result, intra-EU trades would have been mostly staffed with Europeans, as for island cabotage, although under a distinct legal framework. The proposal was however both rejected by the Council and the European social dialogue failed to find an agreement and subsequently the proposal was withdrawn by the Commission in 2004.

Finally, it is worth pointing out that anti-trust rules fully apply to shipping, after Regulation 1419/2006 repealed Regulation 4056/86 creating a block exemption for shipping conferences

¹ Study on Seafarer's employment released on 23 May 2011 by Mr Sulpice, consultant.

² Official Journal C 213 , 09/07/1998 P. 0017

in the cargo liner trades. This brings these European trades under even heavier competitive pressure than trades governed by other jurisdictions.

2.2. State Aid

Over the last thirty years, in order to defend and promote their maritime industry, EU Member States have devised a series of responses to flagging-out, ranging from the "second registers" to special tax advantages for shipowners and seafarers. The aim of the second registers was mainly to ensure the competitiveness of ships in international trade through allowing the recruitment of a cheaper work force from outside Europe at a time when national rules required ships to be entirely manned with nationals. However, since tax advantages amount to State aid under European law, these needed to be authorised by the Commission, which also recognised the need to use State aid as a policy tool in the framework of its maritime policy.

A first set of guidelines on State aid to maritime transport was therefore set out in 1989 which had limited success but provided useful experience of different national approaches to the problem. The second set of guidelines adopted in 1997 focussed on the more successful approaches. A third, along the same lines as the second, was established in 2004 and is currently applied. Its stated policy objectives include (Section 2.2): encouraging the re-flagging to Member States' registers; contributing to the *consolidation of the maritime cluster in the Member States*; *maintaining an overall competitive fleet on world markets*; *maintaining and improving maritime know-how*; *protecting and promoting employment for European seafarers*.

The guidelines allow for the possibility of providing a "tonnage tax" regime in place of generally applicable corporation taxes, reductions/exemptions of/from personal income tax for seafarers, aid to crew relief, and aid to training.

The 2004 guidelines do not contain an expiry deadline. However, they include a political commitment on their review (*'These Guidelines will be reviewed within seven years of their date of application'*). The Commission recently began this review.

It should be emphasised that, at a global level, favourable tax arrangements for ship owning and shipping related companies can be considered as a feature of the commonly applied regulatory framework for maritime transport, irrespective of the fact that they undoubtedly represent State aid under EU law. EU Member States choosing to apply the State aid guidelines accept this particular situation in order to promote the international competitiveness of their registers and employment of EU seafarers.

2.3. Future job opportunities for European seafarers

A number of traditional activities are a potential reservoir of jobs in the EU and compatible with a good balance between professional and private life, in particular inland waterway navigation, short sea shipping and the broader maritime cluster.

The estimated numbers of active seafarers in maritime EU Member States in 2010, plus Norway, (as extracted from ISF/BIMCO Manpower up-date study 2010) are **143 967** officers and **110 152** ratings, for a total of **254 119** seafarers.

77% of officers and 80% of ratings employed on ships flying an EU flag in regular service within the EU are EU nationals. Intra-EU traffics offer about **18 500** jobs for officers (**13%** of the total number of EU officers) and **63 300** for ratings (**57, 5%** of the total number). This high percentage for the latter can be explained by employment on the **2 197** ferries, where the crew number is favourable to ratings, especially in as regards customer services (source: Ecorys 2009). There is no indication about the continuity of these jobs all around the year,

while employment of seasonal personnel is a major factor to be taken into account in estimating full time-equivalent jobs.

As for the employment of women, an ILO survey³ highlighted that women seafarers were concentrated in hotel personnel on passenger ships, while the number of women in other functions or departments remains negligible, although the number of women in the maritime schools has increased in recent years.

The offshore extractive industries have also generated a significant number of jobs especially in some northern countries like Norway, where around 1000⁴ seafarers in 2010 were employed in onboard mobile offshore units. Offshore Services Activity is the most important employment sector for Norwegian seafarers today. There are high competence requirements for all the maritime positions in this segment, not only for those in the officer level. There is also reason to believe that the need for competent personnel within the "maritime-offshore" segment will increase in future years. Demand for oil and gas will increase up to 2030, not at least due to the level of development in China, India and elsewhere in the industrialising world. To meet this demand there will be a need to explore, drill and manage production in new and harsher locations such as deeper waters. This will place even higher demands on the services and not at least on the expertise on board. Employees with EU nationality clearly play an important part in this sector, notably in the UK, Denmark, Italy, and Sweden.

Generally speaking, the maritime cluster includes sectors that are directly linked to the shipping industry and maritime transport, such as shipping services, port services, maritime works, shipbuilding and ship management and brokerage, and sectors that are indirectly linked, such as banking and financial services, R&D and education and marine equipment. Especially for the latter sectors, it is difficult to make a distinction between maritime and non-maritime activities in publicly available statistics. It is estimated that around 5 million persons⁵ are directly employed in the European maritime sector.

There are also emerging sectors which seem likely to develop significantly and provide future job opportunities, in particular renewable energies like wind and wave electricity generation. Existing environment-related plans and strategies acknowledge the potential for job creation, although they rarely include ad hoc skill development. In 2010 the European Centre for the Development of Vocational Training (Cedefop) realised a study on "Skills for Green Jobs", part of a broader study carried out with the International Labour Organisation. According to this study, EU and national policies aimed to tackle climate change can affect skill demand and supply. However, a narrow sectoral approach to skills anticipation and development is insufficient to understand the greening of skills and occupations. There might be interesting developments for the maritime cluster in this respect.

2.4. Career development for European seafarers: existing tools

Several funding tools are available at an EU level in the field of education and training. However, there have been only a few maritime applications and projects benefiting from those instruments so far.

2.4.1. Tools related to vocational education and training

The EU has developed a number of instruments on vocational education and training that might prove useful in the maritime area. These include:

³ Women seafarers: Global employment policies and practices

⁴ Source: Norwegian Shipowners' Association

⁵ Source: An exhaustive analysis of employment trends in all sectors related to sea or using sea resources.

Final report for the European Commission (DG Fisheries and Maritime Affairs; C3135/September 2006, ECOTEC Research and Consulting)

- The European qualification framework (EQF): The EQF is based on the learning outcomes approach. It aims to relate different countries' national qualifications systems to a common European reference framework. In each country, a national coordination point has been designated for this purpose.

EQF is promoting better understanding and transparency of qualifications across EU and is essential for developing a European employment market, promoting mobility and lifelong learning.

- The European credit system for vocational education and training (ECVET)⁶: based on the learning outcomes approach, it helps to validate, recognise and accumulate work-related skills and knowledge acquired during a stay in another country or in different situations, so that these experiences contribute to transfer credits from one qualification system to another, or from one learning "pathway" to another. According to this approach, individuals can accumulate the required learning outcomes for a given qualification over time, in different countries or in different situations

- The Europass⁷: is a single portfolio of documents to support job and geographical mobility to enable individuals to present their qualifications and skills using a standard format understandable to employers throughout Europe. Europass documents are the Europass CV, language passport, Europass mobility, diploma supplement and certificate supplement;

- The European Quality Assurance Reference Framework for VET (EQAVET)⁸: EQAVET helps member states to develop, improve, guide and assess the quality of their VET systems by offering a common tool for quality management practices. EQAVET includes the establishment of national reference points for quality assurance.

2.4.2. *The EU lifelong learning programme:*

- The lifelong learning programme has a budget of nearly EUR 7 billion for 2007-13. It funds various actions including exchanges, study visits and networking activities. There are four sub-programmes which fund projects at different sectors of education and training: "Comenius" for schools, "Erasmus" for higher education, "Grundtvig" for adult education and "Leonardo da Vinci" for VET Structural funds

- The European Social Fund (ESF) is the main EU financial instrument for supporting employment, economic and social cohesion. The ESF financial package from 2007-13 is worth around EUR 75 billion – close to 10% of the EU budget. Its investment priorities over this period are:

- improving human capital (34% of total funding);
- improving access to employment and sustainability (30%);
- increasing the adaptability of workers and firms, enterprises and entrepreneurs (18%);
- improving the social inclusion of less-favoured persons (14%);
- strengthening institutional capacity at national, regional and local levels (3%);
- mobilising reforms in employment and inclusion (1%).

6 Recommendation of the European Parliament and of the Council of 18 June 2009 on the establishment of a European Credit System for Vocational Education and Training (ECVET) - (2009/C 155/02)

7 Decision 2241/2004/EC of the European Parliament and of the Council on a single Community framework for the transparency of qualifications and competences (Europass)

8 Recommendation of the European Parliament and of the Council of 18 June 2009 on the establishment of a European Quality Assurance Reference Framework for Vocational Education and Training - (2009/C 155/01)

Investment in VET may also be provided by the European Regional Development Fund (ERDF).

There might still be resources in some Member States to be used before the end of the current financial framework exercise.

The future package for structural funds to be in force after 2013 is in preparation and will be a key element of the EU's 2020 strategy for Growth and Jobs targeted at improving the lives of EU citizens by giving them better skills and better job prospects.

It is striking that little application has been noted so far in the maritime industry.

2.4.3. Research Funds

Research funds under the framework programmes, which cover research having social dimensions, may also be used to develop and validate new approaches to skill development, for example, with the objective of improving the operational efficiency of ship operations together with safety and job satisfaction.

In this context, the "Know-ME" project, about to be launched, is worth being mentioned, since its future work should be used for the purpose of implementing some of the recommendations contained in this report. "Know-ME" is a three-year project co-funded by the European Commission under the Seventh Framework Programme. It intends to support policy goals related to the "Human Element" and to contribute to attracting and retaining young seafarers.

2.4.4. The example of inland waterways

In order to improve the effectiveness and efficiency of the educational system in inland waterway, a European network of inland navigation schools – EDINNA (Education Inland Navigation) - was founded in February 2009 with the technical support of PLATINA⁹. The network fosters the harmonisation of education and training curricula and provides a platform for experts enabling exchange of know-how and a concerted approach towards the development of professional competencies in inland waterway transport. PLATINA is currently working on the development of a recruitment strategy by defining the target groups, the communication objectives. Progress monitoring procedures and evaluation loops will complement the strategy and its tools. This experience can be usefully considered for the purpose of developing new tools for the seafaring professions, taking however into account the smaller scale of inland navigation by comparison with shipping.

2.5. The Maritime Labour Convention (MLC) and the Convention on Standards of Training, Certification and Watch keeping for Seafarers (STCW)

The Task Force acknowledged the importance of the MLC which lays down standards related to minimum requirements for seafarers to work on board a ship, conditions of employment, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection and also foresees provisions on compliance and enforcement. This fundamental text should contribute to create a level playing field on maritime labour standards.

In order to complement existing European law and put it in line with the ILO international standards, the relevant provisions of the MLC related to the seafarers' rights with no

⁹ www.naides.info

corresponding EU standards have already been transposed into EU law through Directive 2009/13 implementing the European social agreement on the MLC.

The Commission is currently working on the next stage which consists in preparing legislative proposals to ensure the enforcement of the MLC through the flag state and port state control.

The Task Force also noted the amendments of STCW adopted in Manila 2010 aimed at updating the Convention and putting it in line with the current requirements of the maritime industry; among others, by reviewing the categorisation and definitions for certificates, creating mandatory electronic data bases of certificates, setting up criteria for medical requirements and mandatory eyesight standards and conditions for revalidation of certificates including tankers certificates. As regards the content of the training, the STCW foresees standards of training on piracy prevention and security and new competencies, such as on leadership, managerial skills, bridge resource management.

2.6. Working and living conditions on board

A number of studies (SIRC, observatory for the seafarer's rights) identify multiple factors affecting work and life at sea that discourage Europeans from going to or staying at sea for long. Many of these factors regard operations and environmental features not directly addressed by legislation or other policy instruments. The factors include a certain lack of preparedness for the reality of life at sea; difficulties of interpersonal relations on board; lack of human resource management on board; workload, including short turn-round times; isolation from friends and family; the increasingly limited availability of on-board facilities, which, because of an insufficient allocation of space on board, are much less attractive than twenty years ago, when fitness areas and even swimming-pools featured on many cargo-ships, although at a time when seafarers spent much longer uninterrupted periods at sea.

The absence of internet access represents a real problem, in particular, for the young generation. Moreover, at the very beginning of careers, the social environment on board (including cultural and language differences, a tough atmosphere and even bullying in some cases) may turn youngsters away from the profession. Finally, it should also be emphasised that nowadays the overall duration of port calls has dramatically decreased because of commercial pressure to reduce journey times, dense traffic and the considerable improvements of port efficiency. In many cases the ship stays two/three hours at quay, during which cargo-handling operations have to be monitored. In addition, ports are further away from the city-centre and working as a seafarers no longer offers the possibility of visiting new places and getting to know people from other cultures and also simple things like having a stroll or going to a bar are less and less possible in present day shipping, even though this may be again compensated by shorter periods at sea, at least for many European seafarers.

The excessive administrative burden associated with both commercial operations and regulatory compliance, and the associated fatigue, also detracts from the working environment, particularly when these are added to more traditional core tasks.

2.7. The internet issue

Although this issue is part of the adverse living conditions on board, it deserves to be treated separately.

All members recognised the importance of modern communications, encompassing the use of telephone, e-mail and the internet, including access to social and educational networks. However, it was noticed that the availability of service on the high seas can be problematic, performance poor and cost very high. At the same time, the availability of such services is not

straightforward and poses management challenges which need to be addressed to avoid exacerbating other problems, such as social isolation on board and fatigue.

2.8. Shore leave

The Task Force noted that the Maritime Labour Convention requires that “Seafarers shall be granted shore leave to benefit their health and well-being and [in consistence] with the operational requirements of their positions” and also that the Convention does not require ratifying states to grant seafarers shore leave, which represents a gap that might need to be closed.

It is important to understand that seafarers having spent months on a ship, away from family and friends, with little availability of communication media, have a real need to go onshore. The Task Force understands the immigration and security challenges involved in granting blanket shore leave, but is of the opinion that solutions to these challenges need to be sought. One tool to facilitate shore leave may be the improvement of identification of seafarers.

In this context, the ILO adopted the Seafarers' Identity Documents Convention 185 (C108, Revised) 2003, to facilitate effective access control to ships and ports as required by the International Ship and Port Facility Security Code which is aimed at preventing acts of terrorism that threaten the security of passengers and crews and the safety of ships. This ILO convention provides an unprecedented international system for identification freely agreed to on behalf of Governments, ship owners and seafarers. All countries ratifying Convention No.185 will be able to issue the new seafarer identity document (SID) that conform to the requirements specified in standard ILO SID-0002 Finger Minutiae-Based Biometric Profile for Seafarers' Identity Documents.

At EU level, there is specific legislation governing visas with Regulation 539/2001 which contains the two lists of countries whose nationals need a visa for short stay, and those whose nationals can travel to the EU Member States visa-free for periods not exceeding three months. However, the Regulation allows the Member States to exempt civilian sea crew from the visa requirement for shore leave and provides further facilitation for some transit cases and border crossing under certain conditions.

The United Nations General Assembly on 28 December 2008 invited all States to ratify C.185 and EU Council has recommended ratification by all EU members, which led to Decision 2005/367/EC.

2.9. The fear of piracy

The increase of acts of piracy and other acts of violence contributes to make the profession less attractive. This issue has been dealt with both by the IMO and the EU.

The IMO conventions related to piracy and armed robbery at sea include the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, the International Convention for the Safety of life at Sea and the International Ship and Port Facility Security Code. The revised STCW also refers to specific training in this respect. In addition, IMO assists governments lacking technical knowledge and resources through different initiatives, such as the Integrated Technical Co-operation Programme, the Djibouti Code of Conduct.

The report of the UN Secretary General's Special Adviser on Piracy, Jack Lang, on 25 January 2011 indicates that 1900 people have been taken hostage since 2008, 105 ships have been concerned and the average detention duration would amount to 120 days (source EUNAVFOR).

Following the above mentioned report, the Contact Group on Piracy off the Coast of Somalia (CGPCS) and the UN Security Council discussed his 25 proposals to combat piracy. The proposals aim at expanding the capacity of the international community to prosecute and incarcerate pirates, their leaders and financiers, through national prosecutions and innovative additional mechanisms, as well as the development and sharing of information on enabling networks. Along these lines, the EU provides military training to Somali Security Forces, finances capacity building for initiatives (AMISOM) and rule of law, the UNODC Counter-Piracy Programme, the ESA-IO Regional Strategy and Regional Plan of Action, and development aid through the European Development Fund.

As a result of the escalation in acts of piracy over the past years, the European Union has also taken initiatives under the Common Security and Defence Policy (CSDP) to protect humanitarian aid and reduce the disruption to the shipping routes with military initiatives: operation EUNAVFOR under the aegis of UNSCR 1950 in 2010, Operation ATALANTA and EU NAVFOR has established the Maritime Security Centre - Horn of Africa (MSC-HOA) which offers monitoring of vessels transiting through the Gulf of Aden. This is associated with information sharing on pirates with INTERPOL. As regards the prevention of piracy, EU NAVFOR and MSC-HOA have also contributed to the development of Best Management Practices and the MSC-HOA website provides information for the maritime community on updates to BMP and other self-protection guidance.

Despite the actions already taken, serious incidents continue to occur and over an increasingly wide area and are widely publicised. Negative effects on recruitment and retention are likely to be felt as long as this pattern continues.

2.10. The "criminalisation of seafarers"

Reports of criminal proceedings brought against seafarers in different parts of the world have added to the negative image of seafaring as an occupation, particularly when actions are taken prior to any determination of guilt but which have a serious impact on the seafarers' personal lives, such as pre-trial detention. A number of misunderstandings are associated with the EU regulatory measures aiming at preventing accidents and pollution which are described as conducing to criminalisation.

The Task Force noted that Directive 2009/18 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector did not aim to determine any liability or to apportion any blame. Its purpose is to prevent future casualties in carrying out investigations, in order to determine the causes of accidents and to propose remedial actions.

Directive 2009/123 (amending Directive 2005/35) on ship source pollution and the introduction of penalties, including criminal penalties for pollution offences, has been adopted to ensure that persons responsible for illegal discharges are subject to adequate penalties, in order to improve maritime safety and to enhance protection of the marine environment from pollution by ships. The Directive foresees that natural or legal persons can be held responsible for a discharge of polluting substances into the sea, committed with intent, recklessly or, in territorial waters, with serious negligence.

The ship source pollution provisions received considerable adverse publicity, not least in the specialist media known to the maritime professions, which has probably contributed to insecurity among seafarers.

2.11. Awareness of the opportunities offered by the seafaring profession.

The often negative perception of the seafaring professions has also been attributed to a lack of knowledge of the opportunities they offer. In response, awareness campaigns have been organised and proved efficient in some countries such as Denmark, Greece, Belgium and Norway.

Many students attend European maritime schools, where enrolments have been increasing during recent years, especially in Belgium and in Poland.

The Maritime Academy of Antwerp provides an example of successful story, with its specializing training programmes and overall organisation de facto ensuring initial jobs and career perspectives for its students. One successful feature of this academy is that most students have no previous family connection with shipping, which proves that the academy has been capable of raising interest beyond the local and professional environment. The school has also close contacts with the shipping industry and provides a personalized career follow-up for its students. Indeed, where a system is guaranteeing, in practice, cadet training and placement, attracting junior officers proves less difficult.

Many members considered that sail training may also play an important role in attracting young people to pursue careers at sea. Tall Ships are used by commercial and military maritime academies throughout the world as part of their training programmes for professional careers at sea. They offer training on a sailing vessel, which covers much of the same curriculum as a period at sea as a cadet on a commercial motorized vessel, but also leads to an intimate understanding of the natural forces at work at sea in a way that training on the high-tech bridge of a modern vessel cannot replicate.

Finally, for most members of the Task Force, awareness-raising campaigns about opportunities offered by shipping are useful but not sufficient for the purpose of attracting youngsters. To be effective, such initiatives have to build on more fundamental measures making training more accessible and attractive jobs truly available to both men and women.

2.12. Information and monitoring

Since the very beginning of its work, the Task Force was confronted with the absence of complete and accurate data on European seafarers, their number, supply and demand. The different presentations made to the Task Force, the opinions expressed, the studies existing before the start of the work and those published during the work, as well as the ad hoc study carried out for the Commission have definitively confirmed that complete and authoritative data on EU seafarers, and indeed seafarers worldwide, do not exist. Higher quality, more complete information is a necessity for sound policy making in future.

3. DISCUSSION AND RECOMMENDATIONS

3.1. Regulatory framework

3.1.1. The "Manning requirements for regular services"

The Task Force addressed the regulatory framework with the objective of conceiving arrangements promoting the employment of Europeans as seafarers.

On the manning proposal, some members recalled that requiring European working conditions for all seafarers in scheduled intra-EU trades might lead to those trades becoming "the" opportunity for many European youngsters to gain experience at sea. In this context, some members wondered what the actual impact of a revived manning directive would be, since many such services are already manned with Europeans, particularly officers. Members

also recalled that the Commission proposal had provoked considerable conflict at the time, not only amongst Member States but also amongst stakeholders. Others considered that this approach in any case would not improve the competitiveness of European shipping.

This diversity of opinions led the Task Force to conclude that, although some members may have sympathized with the idea of a new manning requirement initiative, the latter would hardly be successful and probably generate emotional opposition, be harmful to the dialogue between social partners as well as to the overall political climate.

For these reasons, the group concluded that this kind of approach was unlikely to be a constructive step in the current context and therefore it recommended that the Commission did not move forward with a new proposal of this kind for the time being.

3.1.2. Manning requirements for offshore-related services

The Task Force nevertheless debated the prospects for employment that could be offered in the medium term by the offshore industry and related services, and considered the opportunity specifically providing for the Member States to fix the manning conditions on vessels providing services to installations within their territorial seas and exclusive economic zones. This would provide a solid legal basis for policies designed to promote European offshore employment which might include reserving to Europeans the jobs generated by such activities. Some members strongly recommended taking advantage of this possibility, without however imposing on the Member States an obligation to reserve jobs to Europeans. In this respect, the experience of the cabotage Regulation was mentioned, within which Member States may - but are not obliged to - require EU nationality for crews on island trades, and many of them actually do, with good results in terms of employment.

In conclusion, the majority of the Task Force recommended that the Commission should examine the possibility of providing that Member States be clearly authorised to establish the manning conditions on vessels providing offshore-related services to installations in their territorial waters or economic zones, learning from the experience of the island cabotage regime.

3.1.3. Exclusions from the scope of EU labour law directives concerning seagoing workers

The six following directives providing or allowing for exclusions of seagoing workers from their scope of application (and/or the scope of application of the implementing legislation) are currently under review by the Commission:

- Directive 2008/94/EC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer¹⁰;
- Council Directive 2009/38/EC on European Works Councils¹¹;
- Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community¹²;
- Council Directive 1998/59/EC on the approximation of the laws of the Member States relating to collective redundancies¹³;

10OJ L 283, 28.10.2008, p. 36. Directive resulting from consolidation of Directives 80/987/EEC and 2002/74/EC.

11OJ L 122, 16.5.2009, p. 28–44.

12OJL 80, 23.3.2002, p. 29.

13OJL 225, 12.8.1998, p. 16.

- Council Directive 2001/23/EC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses¹⁴;
- Directive 96/71/EC concerning the posting of workers in the framework of the provision of services¹⁵.

The Task Force did not have access to the results of the Commission's review which is ongoing. However it noted that in some cases Member States had not taken advantage of the provisions, casting doubt on their necessity. Also important evolutions have occurred since the provisions were adopted, notably as regards communications technology, which might now make information and consultation requirements more practical. Elimination of the exclusions or the application of requirements adapted to the special circumstances of employment at sea would help to eliminate the impression that seafarers are less well protected by European Union labour law than other employees which may contribute to a lack of interest in maritime careers. This applies particularly when no clear justification for the provisions exists.

The group concluded that, subject to the outcome of the current review, the elimination or adaptation of the existing exclusions should be considered in the following directives:

- **Council Directive 2008/94 EC on the approximation of laws of the Member States relating to the protection of employees in the event of insolvency of their employer**
- **Council Directive 2009/38/EC on European Works Councils;**
- **Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community;**
- **Council Directive 2001/23/EC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses.**

3.1.4. *Enforcement of the MLC*

The ILO Maritime Labour Convention establishes an improved international base line for seafarer's working and living conditions on ships trading internationally, some of which are safety related. The entry into force of these standards and their effective application and enforcement are of fundamental importance to raising employment standards both for their own sake and to ensure that standards on European vessels do not prejudice their competitiveness. The effective implementation and enforcement of the Convention will be an advantage for European Shipowners, European ships and also for all seafarers regardless of their nationality.

The Task Force unanimously supported continued efforts by the Member States and the responsible EU institutions to secure the Convention's entry into force and the adoption of effective enforcement measures at EU level, in particular targeted Port State Control inspections and effective checks to ensure compliance and so prevent fatigue and insufficient manning.

The Task Force recommended that the Commission should:

14OJL 82, 22.3.2001, p. 16.

15OJL 18, 21.1.1997, p. 1.

- continue the dialogue with the Member States to ensure rapid ratification and entry into force of the MLC

- facilitate the exchange of ideas and solutions for effective implementation of the MLC among Member States and members of the maritime cluster

- propose that the implementation and enforcement of the MLC be a part of the IMO Flag State Auditing Scheme with which the Member States must now comply in accordance with EU law.

It proposed that the Port State Control authorities should carry out targeted inspections and effective checks to ensure the enforcement of the MLC.

The Task Force also strongly encouraged the social partners to continue their dialogue on working and living conditions for seafarers in general, and MLC matters in particular.

3.1.5. STCW

The members considered that the minimum education framework as expressed through the IMO STCW Convention is both sufficient for the time being and a necessary discipline which needs to be respected by all. The 2010 Manila amendments should improve the level of safety world-wide. Again, this is important both for its own sake and to ensure that the competitiveness of European shipping is not undermined. Adequate funding for new training requirements should also be ensured, within and outside the EU. In this regard the members considered that the work conducted through the European Commission and EMSA in assessing and ensuring the conformity of third countries' programmes before recognition of their certificates is of vital importance.

The Task Force recommended that the Commission properly ensure the enforcement of the Directive applying the Convention as regards the Member States and insist on respect for the Convention when assessing third countries for the purpose of recognising their training institutes and certificates.

3.1.6. State Aid

The Task Force emphasized that the current framework, although it may be considered "generous" according to general standards, is still a necessary condition for keeping a strong shipping industry in Europe.

The group also emphasised that, all in all, the present framework has worked well and given good results. In fact, flagging-out has significantly decreased over the last ten years; onshore activities and jobs linked to shipping have been kept in Europe; and last but not least, shipowners have paid to Member States a certain amount of taxes, instead of avoiding them completely by settling in non-EU jurisdictions. Some members pointed out that the attractiveness of the present system was also due to its simplicity and relative flexibility.

Other members, however, emphasized the need for State Aid being used in order to ensure both the employment of EU seafarers, on board and on shore, and the competitiveness of European Shipping. It should be acknowledged that State aid comes from tax payers and this should imply that beneficiaries should recognize their social responsibilities. Some members of the Task Force recommended that the Commission should introduce for State aid to maritime transport some form of conditionality based on employment of Europeans. They suggested that, for instance, the tonnage tax might be made conditional on a given percentage of man-days worked by European officers during the tax year. The same members suggested

that, in the same vein, State aid should also become conditional on the availability of berths for cadets onboard eligible ships, as it is already under the UK and Italian tonnage taxes.

In this context, a minimum solution would simply require beneficiaries to specify periodically (a) what levels they have achieved as regards the proportion of EU officers and ratings that they employ as well as the number of places that are made available to EU cadets and young officers in the first three years of their careers; and (b) what minimum levels they intend to achieve with regard to these matters at the end of the period. This would at least provide a clear picture of different companies' employment performance over time and their own perspectives for improvement. Depending on developments, the usefulness of this solution could be re-evaluated when the Guidelines are next reviewed.

A middle way might be to fix a minimum improvement in the percentages for EU employment or numbers of berths to be realised in a given period unless the ship-owner is already performing better than the average or a certain percentage above average. This would be linked with the tax rate, allowing ship-owners a greater reduction in tax when they have achieved, or commit to achieve, the specified levels.

All members agreed that any new condition should not jeopardise the overall attractiveness of the framework and the long term stability of the regulatory framework should be ensured.

The Task Force recommended that the Commission should keep the present State aid framework in place and that Member States should make full use of it. Some members recommended that the Commission should introduce forms of conditionality for tonnage tax regimes linked to the employment of European seafarers where they are available.

3.2. Initial training, entry to the profession, career development

The group recognized that experience suggests that attracting and retaining Europeans to maritime employment has been most successful when a number of components are combined in a more or less integrated system. The key components are:

- access to affordable initial training programmes leading to qualifications that are recognised as ensuring the competences needed within shipping and other sectors;
- sufficient opportunities for acquiring practical experience at sea as part of or immediately following initial training programmes;
- assurances that initial employment will be available, preferably on vessels registered under the national flag or flags with good reputations;
- the availability of programmes of continuing education permitting seafarers, including ratings having the necessary potential, to add to their initial skills and qualifications giving them the possibility to offer more than basic seafaring competence and possibly advance to more senior or different roles, within and outside shipping;
- a real perspective of roles being available to them on land after they have been at sea for a number of years, either in shipping or the broader maritime cluster.

While such a complex cycle with all its elements is possibly a counsel of perfection, it can also be regarded as an agenda for actions to be completed over time involving many different actors and different implementing mechanisms and practices reflecting divergent national traditions. It is not susceptible to being developed through the use of the regulatory instruments normally used by the EU's maritime policy. An approach is needed which will stimulate and structure appropriate actions of actors at other levels fully recognising the primacy of their contributions in accordance with the subsidiarity principle. It should at the

same time promote a sufficient degree of convergence in the different approaches to facilitate mutual recognition and to spread best practice. Finally, it should encourage use of existing EU instruments where they are relevant such as those in the fields of professional qualifications and training.

One possible solution would be the creation of an EU level network of administrations, stakeholders and other organisations responsible for maritime training and careers to promote innovation and the convergent development of best practice in the field. Such a network could be used to structure the maritime cluster for these purposes and would ideally be supported by networks having a similar structure at national level. It could address the need for and how best to deliver advanced qualifications; funding issues, including the use of employee undertakings to continue working for employers for a fixed period where they fund continuing education; improvements in curricula and mutual recognition.

The networks should also use existing EU tools and programmes in the fields of vocational education and training like EQF and EQAVET as well as available financing like Leonardo, the European Social Fund and funding for relevant research projects including those having a social character. These instruments might also be used independently of the networks to a much greater extent in the maritime sector than they have been used to date.

The Task Force noted that under the Maritime Labour Convention (Regulation 2.8) Member States will be required to have "*National policies that encourage career and skill development and employment opportunities for seafarers, in order to provide the maritime sector with a stable and competent workforce*", where the aim of such policies shall be "*to help seafarers strengthen their competencies, qualifications and employment opportunities*. Under the same Convention, "*Each Member shall, after consulting the shipowners' and seafarers' organizations concerned, establish clear objectives for the vocational guidance, education and training of seafarers whose duties on board ship primarily relate to the safe operation and navigation of the ship, including ongoing training*".

3.2.1. Higher Education and training

The Task Force discussed the possibility that advanced training is provided to European seafarers, going beyond STCW requirements and aimed at achieving forms of excellence allowing for increased safety and better efficiency in running the ships (e.g., reduced fuel consumption which would compensate for possible extra costs invested in the training). This would offer the shipping sector the option of investing in high quality personnel that would provide a competitive edge in contrast to the now common practice of simply pursuing labour cost reduction. Some members emphasised that the main enhancement of navigational skills comes from experience at sea. It was however concluded that experience at sea can be complemented by advanced training and vice versa, especially - but not only - with respect to special niches (e.g., chemical vessels).

The Task Force recommended the creation of an EU forum/network, MARINET, to stimulate the development of structures involving shipowners, the broader maritime cluster and national maritime administrations aiming to improve maritime training, placement and career development to promote better awareness of the offer of maritime-related jobs at sea and on shore, and to encourage professional development and mobility. The EU network should be supported by similarly structured networks at national level.

The Task Force also recommended more effective use of existing EU instruments and funds like Leonardo both in connection with and independently of the networks.

Finally, the Task Force recommended that ways of creating added value for European seafarers through integrating experience at sea with advanced training. For example, training on quality management should be explored, along with forms of certifying/labelling such advanced skills, these might include expertise in processes for improving the efficiency and quality of ship operations which would probably bring benefits to all concerned, including continuing innovation and cost reduction.

3.3. Working and living conditions

3.3.1. Improving living conditions on board

Improvements in living and working conditions are particularly well suited to action by the social partners through social dialogue at appropriate levels.

The members of the Task Force recalled the importance of effectively handling the MLC requirement that all ships have a sufficient number of seafarers on board to ensure that they are operated safely, efficiently and with due regard to security. It was also noted that, under the Convention, Flag States when determining, approving or revising manning levels should take into account the need to avoid or minimize excessive hours of work to ensure sufficient rest and to limit fatigue.

Beyond the international minimum standards, working and living conditions constitute a field for which organisations representing employers and seafarers are uniquely well placed to ensure that conditions are sufficiently attractive to keep Europeans interested in careers at sea. The group considered that the organisations at European level should develop a continuing programme to address these issues in a systematic way while beginning with the most pressing. As already mentioned in the "Findings", the issues of the lay-out of ships, in particular, the available space for crew on board, and of communication facilities (internet) were extensively discussed. Most members considered these aspects as crucial for the attractiveness of the profession.

The Task Force recommended that social partners at national and EU levels should regularly consult and, if appropriate, negotiate agreements on maintaining and improving working and living conditions to make them sufficiently attractive to Europeans. The Task Force also insisted on the important role of social partners in ensuring the development of a safety culture on board.

One priority concerns accommodation and the possible elaboration of adequate standards on ships' layout which take into account the best standards in force in the EU Member States.

The Task Force also recommended that the social partners should consult and possibly find an agreement on the improvement of communications on board (internet), including the management of such technologies to ensure their reasonable use on board. The Commission should be involved in this respect and if necessary issue a recommendation.

The Commission should explore the possibility of allowing State aid to promote the use of internet communication by ships' crews for the enhancement of their professional and personal lives.

3.3.2. *Administrative burden on board - Fatigue*

The Task Force was particularly concerned about the administrative burden created by excessively detailed, frequently overlapping, multiple controls, inspections and other formalities.

The group concluded that, with the assistance of the Commission, both the Member States and the social partners should as a first step open discussions at EU level on how best to reduce the administrative burden, taking account of relevant technological developments, the potential of reporting systems such as FAL and the “Blue Belt” initiative. Then, in the light of the outcome of those discussions, an initiative should be taken to address within the IMO the adoption of adequate standards to ensure that the processes for establishing manning levels, including the types of competence required, take properly into account the need to comply with unavoidable administrative formalities

3.4. **Legal and administrative treatment of seafarers**

The Task Force recommended promoting the widespread adoption of the IMO/ILO Guidelines for the fair treatment of seafarers. One of the serious problems that seafarers may confront is currently the legal and judicial consequences of incidents/accidents at sea, for example pollution by ships. Seafarers, and captains particularly, may be taken into custody and kept for a long time; substantial bail having to be paid or guaranteed in order for them to be released until the trial begins. The members of the Task Force recalled that this, along with piracy, is currently one of the major fears of seafarers and of youngsters contemplating a career at sea. The IMO guidelines on fair treatment of seafarers in the event of a maritime accident do not appear to have provided in practice an adequate guarantees of the fair treatment required.

3.4.1. *Fair treatment*

The Task Force recommended that the Commission should consider the adoption of an EU instrument requiring Member States to ensure that in case of incidents/accidents seafarers are treated fairly. Such an instrument should be based on best European practice and would give effect to the objectives of the IMO guidelines on fair treatment.

The Task Force also recommended that the Commission should explore the possibility of requiring the employers (shipowners or shipmanagers) established in the EU to assist EU seafarers detained further to accidents/incidents, namely by ensuring legal representation and the payment of bail or similar guarantees where necessary. The question of insurance, possibly compulsory, in this respect should be further assessed.

3.4.2. *Shore leave*

The Task Force recommended that Member States should be encouraged to ratify the ILO Convention 185 on Seafarers’ Identity Documents . Given the particular difficulties encountered in the US, the Commission should consider using the different channels to start a bilateral dialogue with the US in order to find a solution.

The Task Force also recommended that officers in charge of security and border checks in ports are trained in behavioural matters with a view to ensuring rapidity of operations and appropriate consideration for the professional role of seafarers.

3.4.3. *Abandonment of seafarers*

The Task Force noted the work of the ILO/IMO Group devoted to abandonment of seafarers and expressed support to it. In addition, it recommended that the Commission encouraged the Member States to support the work and explore the possibility of creating a special fund to help relieve seafarers of the consequences of abandonment.

3.4.4. *Piracy*

The group noted that while steps have been taken to repress piracy, the problem continues and law enforcement seems to be handicapped by a number of obstacles including legal uncertainties about the responsibilities and powers of States concerned. Also there was evidence that the attacks on ships were associated with inadequate compliance with the basic prevention processes (best management practices or BMP) that have been developed through close cooperation between shipping organisations and competent authorities. They evoked the different options and the advantages and risks associated with them such as ships carrying arms, security personnel, citadels, and escort vessels.

The Task Force recommended the creation of a clearer legal framework for piracy in particular regarding the jurisdictions responsible for prosecuting pirates. Measures to reduce the problem at its source should also be reinforced while recognising their long term nature.

The Task Force also recommended that in the meantime the social partners play a role in ensuring that best management practices in the field of prevention are actually complied with. The Commission should also issue a recommendation in this respect.

The Task Force also recommended that shipping companies should be allowed to defend crews by means of armed guards on board or armed escorts when police or soldiers are not available. Flag States should grant appropriate legal authority subject to conditions concerning the organisations providing armed protection.

3.5. **Improving seafaring's image**

The Task Force concluded on this point that actions to improve the image of seafaring, especially among young persons, should avoid empty generalisation but focus on substantial actions aiming to improve seafarers' lives or career perspectives on board and on shore, such as the ones recommended in the present report.

3.6. **Information and monitoring**

While the Task Force managed to agree on certain trends on EU seafarers as a background for its recommendations, it came to the conclusion that the information currently available was far from satisfactory. A major effort by stakeholders and public authorities should be made, in order to address this lack of useful information as much as possible. Regarding public authorities in particular, the members of the Task Force insisted on the need to avoid excessive cost or administrative burdens and to use techniques, such as surveys carried out at the same time as other controls, to ensure that efforts are proportionate to the achievable objectives. In this context, it was recalled that the EMSA STCW Information System will become operational soon and would provide accurate information on the pool of qualified seafarers in Europe

But further data will also be needed with regard to the labour supply effectively available and its likely future development both for shipping and the maritime cluster in general. These include compatible data on those entering and leaving training programmes, entry into relevant employment, retention rates and employment on shore. In order to avoid a

fragmented and incompatible picture, such information needs to be collected in a consistent way following a clearly defined methodology.

The Task Force considered that the availability of comparable data should be improved in order to better sustain future policy developments. It recommended that public authorities should take action in order to gather data on employment, labour demand/supply, training, qualifications, recruitment practices and retention, in the most accurate and cost effective manner possible. The Task Force also underlined that the EU should ensure the coherence and completeness of the information collected. The Commission has a central role to play in this regard and should take action to initiate the process, possibly under Article 337 of the Treaty. It should also involve EMSA, where appropriate, especially in relation to safety related information.