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POLITICIANS, THE EUROPEAN COMMISSION, REGULATORS, AND SHIPPING, WHAT IS THE MISSING LINK AND THE WAY FORWARD?

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Ladies and gentlemen,

The organisation of which I am Chairman – the International Chamber of Shipping – is primarily concerned with influencing the development of global rules for shipping at bodies such as the IMO. ICS is unique, in that it is an association of shipowner associations of all the major maritime nations in the world, who in turn represent the entire Shipping Industry of those nations, and thus collectively represent almost 80% of world shipping.

Through our member national associations, we also communicate with individual governments, especially with regard to national or regional rules that may be at variance to those agreed internationally. Although today the topic concerns the importance of having permanent means of communication between Politicians/Regulators and the Shipping Industry internationally, I will concentrate primarily on our relationship with the EU in this respect. However, whatever I will say applies to Politicians/Regulators across the Globe.

The European Union, of course, is not a sovereign state, but for all intents and purposes it often behaves like one, and its influence on shipping certainly cannot be ignored.

In simple terms, the EU is important for shipping in two main respects. The first is that since Europe is a major trading area, the rules which it develops must be compatible with those developed internationally. The second point, concerns the influence which the EU wields at bodies such as IMO where international rules are developed. Often these two areas of activity are closely interlinked, with Brussels sometimes threatening to introduce regional rules unless IMO accedes

to its demands. It did this with respect to the accelerated phase-out of single tankers, a decision that had billion dollar implications for the industry. It also did this more recently with regard to atmospheric pollution rules, and at the moment Europe is presenting a further ultimatum to the IMO, for the introduction of regional rules for the regulation of CO₂ emissions unless IMO delivers a satisfactory international agreement before the end of next year.

But while it is often tempting to demonize the EU, there is a lot of misunderstanding about what it is or how it works. Moreover, the EU can also be a force for good. Pressure for change can be useful. For example, the EU membership of Cyprus and Malta has directly led to significant improvements in the performance of these major open registers, while the EU's assertive and systematic approach to port state control has undeniably driven up standards.

It is important to clarify that it is not appropriate for ICS to judge whether the overall concept of the European Union is a good thing or a bad thing. My concern is strictly limited to the EU's impact on shipping. EU involvement in shipping issues has increased considerably in recent years, as it has expanded its political competence in relation to that of individual EU maritime administrations. A particular cause for concern is the implications this may have for the future authority of IMO as the industry's global regulator.

Not being a sovereign state, the EU is not currently a full member of United Nations bodies such as IMO and ILO. However, the European Commission does enjoy observer status and, where it has the political competence to do so, and it increasingly co-ordinates common positions amongst EU States at IMO meetings, making them act as a political block.

It is important to understand that the EU has fairly well developed political institutions. These can be summarised as:

- The Council, which comprises representatives of the EU Member States - in the case of shipping the EU Transport or Shipping Ministers;
- The European Parliament, with some 700 representatives directly elected by the general population from across the EU;

- And last but not least the European Commission.

The European Commission is in effect the EU civil service, although it is very different to most national bodies of civil servants because it is actually responsible for initiating the majority of EU legislation, which in a national context is usually the role of politicians. This includes most regulations which impact on ships trading to and from EU ports.

This is not to say that the European Commission does not always listen to what the shipping industry has to say. For example, when a few years back it was proposed that the statutory and classification functions of class societies should be separated, it was willing to change its mind. The Commission does have a system of consultation with industry on new regulations and the EU and Commissioners and senior officials are relatively accessible. However, while they may be sometimes willing to listen to industry with regard to the details of what they may be proposing, it is often very difficult to divert the Commission from its path should this interfere with its underlying ambitions to increase its authority in relation to individual EU Member States. I think it would be much more helpful if the Commission could routinely first discuss its ideas informally with international industry representatives, so that we can point out the pros and cons before potentially misconceived ideas become formal proposals, which are then far more difficult to withdraw or amend.

I must stress that the Commission as well as the Politicians/Regulators, Ministers and others have to accept that consultation cannot be adhoc, it has to be permanent, it has to be on a continuing basis, and it has to be with bodies such as ICS/ISF, who represent the International Shipping Industry, have an international perspective, and can and do form international consensus.

The Commission should view this as a partnership for the common good, the industry and regulators in the EU or anywhere else for that matter are not and should not be adversaries. The industry has the expertise and the regulators should tap it.

My own organisation, ICS, attaches great importance to maintaining close relations with the various EU institutions in order to ensure they are aware of the international implications of their decisions. This is not always easy. However, we benefit greatly from our close co-operation with the European Community Shipowners' Associations (ECSA) – whose member national associations also belong to ICS

Time does not permit me to go deeply into any of the many current issues on which engagement with the European Commission is so important. The one issue on which I would like to focus however, concerns the EU's ambitions to be a full member at IMO. This issue is much more important than some people realise.

The main concern about the prospect of a full EU membership of IMO relates to the impact this would have on the quality of IMO decision making. For the most part decisions at IMO are currently taken on the basis of their technical merits, following intensive discussions between experts from the world's major maritime administrations. However, the increasing co-ordination of positions taken by EU Member States means that decision making is becoming evermore politicized with the danger that technical considerations may be sidelined or overlooked. Moreover, if IMO rules are adopted as a result of the 27 EU States acting as a block, there is a danger that other nations may not feel quite the same sense of ownership of IMO rules, and as a consequence they may be less inclined to ratify and enforce them.

Because of the short time available, please appreciate that I am simplifying very complex issues, and the extent to which positions are currently co-ordinated from Brussels depends on whether the IMO rules being discussed are already subject to EU legislation, which automatically confers political competence on the Commission over the Member States. However, the trend is very clear. While most individual EU States, and particularly their maritime administrations, are reluctant to cede their power, the European Commission has a clear agenda of systemically increasing its political competence over maritime issues and their negotiation internationally.

It is probably fair to say that when ICS members wish to change the outcome of discussions, about new EU rules, they put much of their efforts into trying to influence the EU Council, which comprises the governments of individual EU States. Provided governments also feel strongly about an issue, this can sometimes produce results. For example, we were recently successful in persuading the EU not to proceed with a new Directive on civil liability in shipping, which might have seriously undermined IMO liability Conventions. However, politics can also interfere with Council discussions and shipping is very vulnerable to 'horse trading'. This is especially the case when issues such as competition rules, or measures on air pollution or CO₂, are led by parts of the Commission not directly involved with shipping - outside of DG MOVE and Mr Karamitsos and his colleagues.

The EU also now has an officially agreed ambition to become a full member of IMO, with the same rights as other sovereign states. However, I would suggest that it currently wants to 'have its cake and eat it too'; seeking full membership for itself while retaining the membership of the 27 individual EU States whose positions at IMO it increasingly controls.

I therefore would like to repeat that I remain very concerned about the negative effect that greater co-ordination in Brussels of positions adopted by EU Member States will have on the quality of IMO decision making on issues which should be considered primarily from a technical and operational perspective, and always with the industry experts being involved from day one.

In a short time, I have tried to cover a lot of a rather complicated ground. I hope I have conveyed the importance of responding to the influence of the EU upon our global industry, something which ICS takes very seriously with the support of our colleagues in ECSA. In particular there is a need for articulate engagement by industry interests located outside of Europe, especially in Asia, to ensure that the consequence of this political shift in Brussels does not have an unduly negative impact on the interests of our global industry. In conclusion, I would like to stress

again, the necessity of permanent means of communication with international bodies such as ICS.

I hope this has been of interest and I thank you very much.