MARITIME TRANSPORT: STRATEGIC APPROACH

EU regulations on maritime transport focus on the application of the principle of free movement of services and the correct application of competition rules, while ensuring a high level of safety, good working conditions and environmental standards.

LEGAL BASIS AND OBJECTIVES

Article 100(2) of the Treaty on the Functioning of the European Union (TFEU) is the legal basis, supplemented by the Treaty’s general provisions on competition and the freedom to provide services (see fact sheet 2.1.4). The aim is to apply the principle of freedom to provide services to the EU’s maritime transport industry and to ensure that competition rules are complied with. Sea transport is also a central part of the Integrated Maritime Policy (IMP) (see fact sheet 3.3.8). The EU’s maritime safety policy is dealt with in a separate chapter (see fact sheet 3.4.11).

ACHIEVEMENTS

A. General approach


In January 2009, the Commission published a communication on strategic goals and recommendations for the EU’s maritime transport policy until 2018 (COM(2009)0008). A wide range of impending challenges was identified, including:

— EU maritime shipping in globalised markets and in the face of increased competition;
— Human resources, seamanship and maritime know-how: possible strategic measures that could be taken included, in particular, increasing the attractiveness of maritime professions, improving the training of seafarers, promoting lifelong professional prospects in maritime sectors and improving the image of shipping;
— The long-term objective of achieving ‘zero-waste, zero-emission’ maritime transport, improving maritime safety and preventing terrorism and piracy;
— Exploitation of the full potential of short sea shipping, for example by creating a borderless European maritime transport area and fully implementing projects to establish motorways of the sea or to link ports to their hinterland;

— Maritime research and innovation: promoting innovation and technological R&D in order to improve the energy efficiency of ships, reduce their environmental impact and provide better quality of life at sea.

B. Market access

The first maritime legislative package dates back to 22 December 1986 and comprises the following regulations: Regulation (EEC) No 4055/86, which was intended to abolish restrictions on EU ship owners, Regulation (EEC) No 4057/86, which dealt with unfair pricing practices in maritime transport, and Regulation (EEC) No 4056/86, which allowed the Community to counter the ‘protectionist’ measures of third countries.

In 1992, the Council adopted a second maritime package of measures to phase in the liberalisation of national cabotage (access for carriers not resident in a given Member State to the maritime transport market between ports in that Member State) and in particular Regulation (EEC) No 3577/92 of 7 December 1992.

C. Competition rules

Regulation (EEC) No 4056/86 was repealed by Regulation (EC) No 1419/2006, through which the scope was extended to include cabotage and international tramp vessel services.

On 1 July 2008, the Commission adopted a set of guidelines on the application of Article 81 of the Treaty establishing the European Community (subsequently replaced by Article 101 of the TFEU) to maritime transport services. In September 2013, it decided not to extend the guidelines on maritime transport agreements, having found that their objective of facilitating the regime change by applying competition rules to the maritime sector had been achieved. On the issue of State aid, in 1997 the Commission had already adopted a legal framework authorising Member States to implement State aid schemes for the maritime sector. In 2004, the Commission confirmed this framework in the form of revised guidelines on State aid to maritime transport (Commission communication C(2004)0043). These clarified what aid — particularly for the purpose of promoting the entry of vessels in the registers of the Member States or a return to registration under their flags — is compatible with the Treaty establishing the European Community.

The opening up of port services to competition, however, is yet to be achieved. In February 2001, the Commission presented a communication on reinforcing quality services in sea ports (COM(2001)0035), accompanied by a proposal for a directive on market access to port services (‘first port services package’). After nearly three years, an agreement was reached between Parliament and the Council through a conciliation procedure, but Parliament rejected the agreement on 20 November 2003. The Commission then tried to address the subject again, putting forward a new proposal on 13 October 2004 (COM(2004)0654), which Parliament also rejected, this time at first reading on 18 January 2006. On 23 May 2013, the Commission presented a new package of measures to liberalise port services: a communication entitled ‘Ports:
an engine for growth’ (COM(2013)0295) and a proposal for a regulation establishing a framework on market access to port services and financial transparency of ports (COM(2013)0296). On 15 February 2017, Regulation (EU) 2017/352 of the European Parliament and of the Council was adopted. This new EU strategy is part of the revised TEN-T guidelines (see fact sheet 3.5.1) and covers 319 major seaports. The aim is to level the playing field in the sector, protect port operators against uncertainties and create a climate that is more conducive to efficient public and private investment. The regulation defines the conditions under which the freedom to provide port services applies, for instance the type of minimum requirements that can be imposed for safety or environmental purposes, the circumstances in which the number of operators can be limited and the procedure for selecting operators in such cases. It introduces common rules on the transparency of public funding and of charging for the use of port infrastructure and port services, notably by making sure that users of the port are consulted. It introduces in each Member State a new mechanism to handle complaints and disputes between port stakeholders. Finally, it requires all port service providers to provide employees with adequate training.

The social provisions governing the port labour regime are discussed by the Social Dialogue Committee for Ports, which was set up in 2013 and brings together port authorities, terminal operators, dockers and other port workers.

D. Working conditions

Directive 1999/63/EC of 21 June 1999 was based on an agreement between the European Community Shipowners’ Associations (ECSA) and the Federation of Transport Workers’ Unions in the European Union. It concerned the working time of seafarers on board ships carrying EU Member State flags, while Directive 1999/95/EC of 13 December 1999 applied it to third-country ships calling at Community ports. On 23 February 2006, the International Labour Organisation adopted the Maritime Labour Convention (MLC), thus creating a single, self-contained instrument comprising all the current standards relating to maritime labour: seafarers’ right to a safe, secure job in accordance with current safety standards; appropriate employment and living conditions; health protection; medical care and social protection. Directive 2009/13/EC amending Directive 1999/63/EC implements the agreement on the MLC.


Directive 2013/54/EU of 20 November 2013 concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention implemented the agreement reached between ECSA and European Transport Workers’ Federation on the 2006 MLC.

Finally, Directive 2015/1794/EU of 6 October 2015 amended the text of five directives (2008/94/EC, 2009/38/EC, 2002/14/EC, 98/59/EC and 2001/23/EC) on works councils, collective redundancies, the transfer of undertakings, employer insolvency and informing and consulting workers, to ensure that seafarers would be covered by all of the directives in all Member States.

E. Environmental standards for sea transport

In recent years, numerous measures have been adopted on protecting the marine environment. They include in particular:

— Directive 2000/59/EC of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues, which made it compulsory to dispose of oil, oily mixtures, ship waste and cargo residues at EU ports, and provided the monitoring mechanism necessary to enforce this. In January 2018, the Commission presented a proposal for a new directive repealing Directive 2000/59/EC. Parliament adopted its position at first reading in a resolution of 13 March 2019 and the Council adopted the proposal in April 2019. The final act has been signed and was published in the Official Journal on 7 June 2019 (2018/0012/COD);

— Regulation (EC) No 782/2003 of 14 April 2003 on the prohibition of organotin compounds on ships. Prior to the entry into force of this regulation, such compounds were used primarily as anti-fouling agents to prevent the growth of organisms on ship hulls, but caused serious environmental damage. This regulation implements the AFS Convention adopted by the IMO on 5 October 2001;

— Directive 2005/35/EC of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements. This contains precise definitions of offences and also provides for effective, dissuasive and proportionate penalties — criminal or administrative — for violations of the rules. It was amended by Directive 2009/123/EC of 21 October 2009, which ensures that persons responsible for discharges of polluting substances are subject to adequate penalties, including criminal penalties (even in less serious cases);

— Directive 2012/33/EU of 21 November 2012 (the ‘Sulphur Directive’) provided that cargo vessels sailing in the maritime territories of Member States would no longer be permitted to use fuel containing more than 0.1% mass of sulphur as of 1 January 2015. These waters are classified as a sulphur emission control area in accordance with Annex VI to the MARPOL Convention. See also Directive 2016/802/EU of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels.

ROLE OF THE EUROPEAN PARLIAMENT

In its resolution of 12 April 2005 on short sea shipping, Parliament called for short sea shipping to be promoted more strongly, for administrative procedures to be reduced,
for high-quality corridors between Member States to be developed, and for priority to be given to investment in infrastructure in order to improve access to ports.

In its resolution of 5 May 2010 on strategic goals and recommendations for the EU’s maritime transport policy until 2018, Parliament supported the Commission’s approach in principle. It also called for further action against abuses of flags of convenience; new rules on State aid and guidelines for ports; greater consideration of maritime routes within the TEN-Ts (particularly through the motorways of the sea); improvements in the sustainability of maritime transport by reducing emissions from ships; and an EU maritime transport policy to be developed for the common maritime area.

On 15 December 2011, Parliament adopted a resolution entitled ‘the Roadmap to a Single European Transport Area — Towards a competitive and resource efficient transport system’ in response to the 2011 Commission white paper of the same title. With regard to maritime transport, Parliament called for:

— A proposal to be put forward by 2013 on the ‘Blue Belt’ (see COM(2013)0510 of 8 July 2013);
— The introduction of an EU policy for short and medium sea shipping;
— The allocation of at least 15% of TEN-T funding to projects that improve sustainable and multimodal connections between seaports, inland ports and multimodal platforms.

On 2 July 2013, Parliament followed this up with a resolution entitled ‘Blue Growth: enhancing sustainable growth in the EU’s marine, maritime transport and tourism sectors’, presenting Parliament’s roadmap for further advancement and seeking to revitalise the IMP. Parliament recommended establishing maritime spatial planning systems, upgrading infrastructure and creating access to professional skills. Crucially, Parliament also reiterated the paramount importance of maritime skills and employment, research and innovation, and the EU share of shipping and shipbuilding.

On 28 April 2015, Parliament adopted a legislative resolution approving, without amendment, the Council position at first reading with a view to adopting Regulation (EU) 2015/757 of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC.

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