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Effectiveness of the European Maritime Policy Instruments

G. Šteinerts
Latvian Maritime Academy, Riga, Latvia

ABSTRACT: European Maritime Transport Policy 2009-2018 was confirmed by EC Strategy Paper of 21 January 2009. This gives sound basis also for future of European shipping policy and particularly in respect of the global competitive position of European shipping. State Aid Guidelines for Maritime Transport have been introduced and implemented in many European countries and it was proposed now to maintain these Guidelines for another longer period and possibly to improve them also. The latest EU Maritime policy developments are discussed more in detail in this Paper and effectiveness of them assessed.

1 EUROPEAN LEGISLATION ON STATE AID

1.1 *State Aid Guidelines for Maritime Transport*

Basic principle of European State aid to maritime transport is based on gains from maritime cluster that overweight the tax relaxation and reduction of State taxation revenues from the shipping as a consequence.

Initially the State aid to the shipping industry was introduced since 1989, based on the example of Greece and the Netherlands. Now the European Shipping policy is mainly based on Communication of the European Commission C(2004)43 of 17 January 2004 “Community Guidelines on state aid to maritime transport” [1]. The term of application of these Guidelines was extended up to year 2011 at least. These Guidelines are focusing on merchant fleet taxation system, introducing tonnage tax instead of corporative tax, also relaxation of income taxation and social security payments for community seafarers. Many European countries had introduced this State aid to merchant shipping, they have to report to European Commission and obtain approval from EC. The above Guidelines are under revision as announced by COM(2009) 8, the Communication of 21 January 2009 “Strategic goals and recommendations for the EU’s maritime transport policy until 2018”. COM(2009) 8 strongly declares prolongation of Guidelines: “A clear and competitive EU framework for tonnage taxation, income taxation and state aid should be maintained and, where appropriate, improved, in the light of the experience gained under the State aid guidelines for maritime transport.” [2]

Apart from the above type of State aid to ship owners and seafarers taxation relaxation in Chapter 10 of Communication C(2004)43 is the provision providing another type of State aid in a form of complementary funding for the launching of the Motorways of the Sea. This is confirmed by another Communication 2008/C 317/08. By this communication is allowed, under certain conditions, for start-up aid to new or improved short sea shipping services with a maximum duration of three years and a maximum intensity of 30 % of operational cost and 10 % of investments costs. This is Marco Polo scheme, focusing on financial support by Community funding in development of new short sea shipping lines. Second stage of Marco Polo II program has been successful. Under the 2009 call for proposals, 22 projects were successful - from 70 bidders for the budget of €66.34 million. Marco Polo is supporting also rail transport, accounting for 40.7% of the grant, followed by sea routes with 22.7%. The project budget for 2007 – 2013 is €450 million. [3]

1.2 *State Aid to ship management companies*

This is new undertaking by EU to extend the Commission Communication C(2004) 43 provisions on reduction of corporate tax or the application of the tonnage tax also to ship management companies under section 3.1. of the Guidelines. This is provided by adoption of Communication from the European

Commission 2009/C 132/06. It does not deal with the State aid to commercial managers of ships. The Communication applies to crew and technical management irrespectively of whether they are individually provided or jointly provided to the same ship. However, eligibility is limited to the joint provision of both technical and crew management for a same vessel ("full management").

In Europe shipping management most developed is in Cyprus, which features the largest ship management industry in the world. Important players in this field are also in the United Kingdom, Germany, Denmark, Belgium and the Netherlands. Outside Europe ship management most developed is in Hong Kong, Singapore, India, United Arab Emirates and the USA. Therefore it is important that European ship management business should be further supported in respect of the global competitive position of European shipping be maintained and reinforced.

1.3 *State Aid to shipbuilding*

State aid provisions for Community shipbuilding have been introduced long before tonnage tax system. Present ones are given in the "Shipbuilding Framework" which entered into effect on 1 January 2004. [4] These rules have been applied initially for a period of three years, then prolonged twice and currently applicable until 31 December 2011. In a view of the expiry of the Framework by the end of 2011, the Commission have started consultations with Member States and other interested parties to determine whether to continue to apply this Framework, modify it or let it expire in 2011.

Some of the problems that the EU shipbuilding industry is facing today are linked to the economic and financial crisis. After a period of several years of high demand, in 2009/2010 demand for new ships has fallen drastically. Therefore this aid could be critical to support research, development and innovation in European shipbuilding as announced in COM(2009) 8, the Communication of 21 January 2009 “Strategic goals and recommendations for the EU maritime transport policy until 2018”.

2 ECONOMIC BACKGROUND

2.1 *European fleet position in the World*

Europe plays a major role in today’s shipping world, with European companies owning 41% of the world’s total fleet in terms of deadweight (DWT) and 45% in terms of Gross Tonnage (GT). This is partly because of effectiveness of EU State aid regime. These figures are based on ownership, or to be more accurate, on real control of this fleet and not on flag.

European (European Economic Area – EEA) registered merchant fleet share in the World fleet, which may be used for assessment of EU State aid effectiveness, is as in Table 1. [6]

Table 1. European flags share in the World merchant fleet, mil. GT / DWT , %, as on 1st July 2010

	Gross Tonnage, mil.	Deadweight, mil.
World	915.976	1348.786
EEA	209.079	289.705
EEA / World %	22.8 %	21.5 %

As to latest statistics of European national flag registers share in the World, the situation is rather stable about 21- 22% share, but YoY development is slower than the Worlds’ one (Fig.1). [6] [7] [8] [9] World merchant fleet is developing steadily and faster than the EAA fleet under national flags.

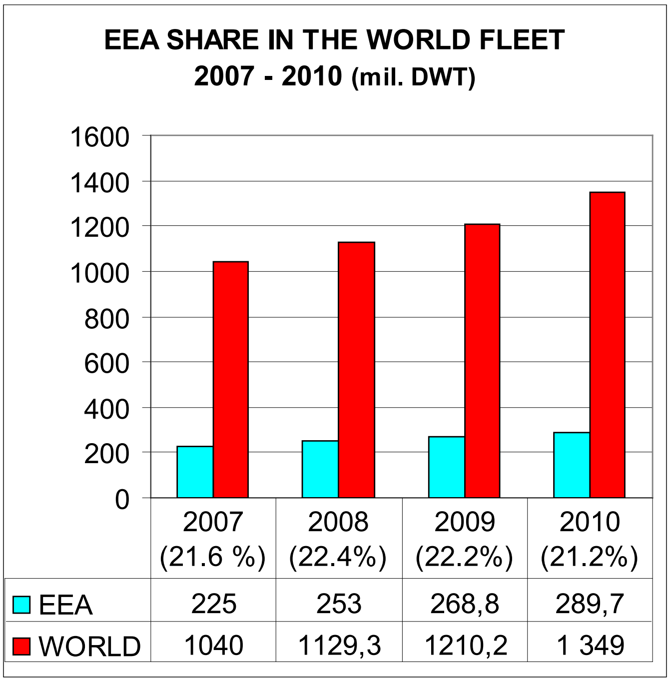

Figure 1. European flags share in the World merchant fleet, mil. DWT , %, 2007 – 2010

2.2 *European registered and controlled fleet*

The economical strengths of the European shipping are connected not only to national registers. It is always the matter of discussions whether the national flags are so important as far as the merchant fleet development very often is based of the Flags of Convenience (FOC) model and these flags are doing well indeed, the most successful being Panama with 198.6 mil. GT (21.7% of the World fleet), Liberia with 97.7 mil. GT (10.6%) and Marshal Islands with 55.7 mil. GT (6.1%).

At the same time even the 3 biggest European flags are comparatively small – Greece with 40.9

mil. GT (4.4% of the World), Malta – 35.7 mil. GT (3.9%) and Cyprus – 21.2 mil. GT (2.3%). [6]

Malta and Cyprus also could be considered as European FOC registers and this is possibly because of ship management businesses in these countries. Another European FOC may be attributed to Isle of Man register, which is outside the EEA jurisdiction but with close connections to UK shipping.

The situation for all European registered merchant fleet versus European controlled fleet but registered under 3rd flags is rather stable last years. EEA Registered merchant fleet in terms of GT is of the same size as EEA controlled fleet but registered under 3rd flags, possibly under FOC. At the same time it should be noted, that not all fleet registered in EEA registers is controlled by EEA shipowners. The situation for EEA controlled and EEA registered merchant fleet and these two types of European fleet against World Total fleet in terms of GT for years 2007 to 2010 are presented in Table 2. [6] [7] [8] [9]

Table 2. EEA registered and EEA controlled merchant fleet 2007 – 2010 (100 GT and above), mil. GT

	2007	2008	2009	2010
EEA Registered and controlled	140.5	151.6	163.0	175.7
EEA Registered, foreign controlled	21.2	30.0	30.8	33.3
EEA controlled, registered outside EEA	150.3	160.2	160.8	206.5
TOTAL EEA	312.0	341.6	354.6	415.5
TOTAL World	704.6	770.9	824.7	916.0
TOTAL EEA to TOTAL World, %	44.2 %	44.3 %	43.0 %	45.3%

EEA Registered and foreign controlled fleet is rather unclear model. We can only guess where these foreign owners are from. Possibly the reason is connected with the development of European ship management businesses, such are very active in Cyprus. Very possibly this is also in conjunction with the offshore registered companies, i.e. very well known and favourite model of tax–avoidance. Whatever the reasons for foreigners to register their ships in EEA registers, this is in line with the European shipping policy supported by new European initiative on State Aid to ship management companies. Contrary to this, European shipping policy is not favouring European controlled fleet registered outside EEA, which is not in line of strengthening of EEA countries maritime cluster but supporting FOC system rather.

2.3 *Impact of the World economic recession*

Demand for shipping and port services is derived from the demand for the products being shipped. Collapse in demand because of the global financial crisis has lead to a dramatic change in freight rates, which also collapsed in all sectors and are unlikely to begin their upward cycle until the supply and demand gap is closed. In this respect, the emerging markets of China and India have made a significant impact on demand side of the industry. As far as trade is concerned, there is still enormous potential for growth in countries such as Vietnam, Malaysia, Philippines, the Indian sub-continent, countries of Central Asia, Russia and the East European states, Africa and South America. Despite of current massive overcapacity of tonnage the growth of China, India and others Asia countries are likely to help avoid overcapacity and depression in the shipping market.

Shipping industry analysts are rather optimistic on recovery of shipping market. As to World merchant fleet development, they quote the following YoY figures, as in Table.3. [5]

Table 3. Prospects of World merchant fleet development 2011

	2009	2010	2011
Tonnage demand	-2.9 %	12 %	6 %
Fleet growth	6.7 %	7 %	7 %
Utilization rate	81.1 %	85 %	84 %

In connection with future development of European fleet, we may examine the shipbuilding portfolio, as at May 2010, showing the following figures in terms of deadweight:

EEA shipowners have ordered merchant fleet of 174.8 mil. DWT, which is 32.4 % of the World shipbuilding portfolio of 540 mil. DWT. These figures does not include 64 passenger ships' ordered for EEA shipowners out of 192 passenger ships total orders in the World. This is a promising sign also for fleet renovation trend as the newbuiding portfolio is approximately 40 % of existing fleet size. [6]

It is hard to assess what impact could be expected because of application of European State Aid to shipbuilding regime. This State aid may be of good use for European shipyards which are key drivers for maritime innovations and therefore eligible to this State aid regime. The difficulties may arise because of Far East shipbuilders' enquiries to World Trade Organization (WTO) whether this Sate aid complies with the fair competition rules.

3 EEA COUNTRY PROFILE

3.1 *Major European flags*

There are 10 EEA flags in the list of World 30 biggest flags. No.1 in EEA is Greece, ranking 7th in the

World. Then follows Malta, 8th in the World and Cyprus, 10th in the World. It should be noted again however, that these statistics are according to registration or flag and not according to the fleet under ownership or under control.

If we consider the second type of ranking, i.e., controlled fleet, then No.1 in the World is Japan with 176mil. DWT and No.2 - Greece with 175 mil. DWT. Germany with 105 mil. DWT is No.3 in the World by controlled fleet. The current list of 10 EEA major flags includes also UK, Norway, Italy, Denmark, France, Netherlands and Isle of Man (not in EEA). The development of European major merchant fleets by flag as from 2007 is presented in Table 4. [6]

Table 4. Development of major European flags 2007 - 2010, mil. DWT and percentage

	2007	2010	2007/2010 %
Greece	56 665.4	71 752.8	+ 26.6 %
Malta	40 480.5	58 337.2	+ 44.1 %
Cyprus	30 141.5	33 024.6	+ 9.5 %
Norway	22 491.5	22 687.8	+ 0.9 %
UK	12 437.8	19 245.8	+ 54.7 %
Italy	13 346.0	17 682.2	+ 32.5 %
Germany	13 856.0	17 660.2	+ 27.4 %
Isle of Man	13 730.0	15 486.5	+ 12.8 %
Denmark	10 602.9	13 319.5	+ 25.6 %
Netherlands	4 999.4	7 828.8	+ 56.6 %
France	7 343.0	8 019.0	+ 9.2 %

Tonnage increase as from 2007 is noted for all major European flags except Norway. The champions for increase speed are UK and Malta. Serious increase of tonnage is also for Netherlands, the basic initiator for introduction of tonnage tax. Malta's tonnage increase apparently is connected with the ship management business. All this is confirming the effectiveness of the system of State aid in general, when this aid is properly applied.

However, this is current situation of tonnage under national flags. When considering tonnage under control Greece is No.2 in the World with 175 mil. DWT. Germany is No.3 with 105 mil. DWT and have the fastest developing fleet with average annual growth of 16.2% but 83% of it is foreign registered. [10]

3.2 *European country profile*

It would be important to assess the situation in each of EAA country, what is a balance between the national flag and 3rd flag fleets. This would serve as the indication of how effective is the system of State aid, which is a basis for development of a maritime cluster in each country and in EEA as a whole.

Greece is the first to consider as No.1 in EEA and No.2 in the World by controlled tonnage. The Greek owned fleet under EU flags (including national Greek flag) accounts for 39.7% of the EU tonnage in terms of DWT, while under national Greek flag is 24.7% of the Greek owned fleet. Therefore, under non-European flags is 60.3% of the Greek owned fleet and this is not in line with the European shipping policy ideas. Further development of Greek fleet is expected, as by the end of December 2009, new-building orders by Greek interests (ships over 1,000 GT) amounted to 748 vessels and 64.9 million DWT. Under what flag this new fleet is going to be operated is hard to answer.

Generally speaking, the Greek fleet situation confirms the effectiveness of application of tonnage tax system introduced in Greece before the Netherlands. There are 1,300 shipping companies now in Greece giving solid base for national maritime cluster providing employment directly or indirectly to 200,000 persons. The outstanding performance of the maritime sector in the context of World (and national) economic downturn in 2009 is a confirmation that the maritime sector was the only in Greece that did not create any unemployment. Positive trend also is noted on national efforts for the attraction of youngsters to the seafaring profession, resulting in increase of number of cadets for the Marine Academies by 50%. [6]

Malta as a second European flag with 58.3 mil. DWT fleet is developing very fast. As to fleet under control of Malta's shipowners, the figure is very small (59,000 DWT on 1st July 2009). That means that all Maltese registered fleet in foreign owned. Malta shipping policy is based on support of ship management businesses, supported also by national law. In 2010 the new regulations have been adopted which extend the tonnage tax regime to foreign flagged ships and to ship-management activities.

Cyprus with 33.0 mil. DWT fleet is another example of the largest ship management centre in Europe. Merchant fleet under control of Cyprus shipowners accounts for 25% of Cyprus flag registry (2009). Cyprus is also implementing improvements to their tonnage tax system by offering new additional tax incentives for Cyprus shipping companies.

Norway historically is claiming to be a shipping nation. Norwegian International Ship Registry (NIS) was introduced long time ago serving some support to Norwegian fleet. As to taxation, in 2007 the Parliament has adopted a new shipping tax scheme abolishing favourable 1996 taxation rules. In February 2010, the Norwegian Supreme Court concluded that 2007 rules are not complying with the Constitution, previous rules may be applied. Statistics of development of Norwegian merchant fleet reflects these political uncertainties: for period as from 2007 to

2010, tonnage is on stagnation, in 2010 being 22,6 mil. DWT. Fleet under Norwegian shipowners control is a double size as under Norwegian flag (including NIS); about 49% (2009) of the controlled fleet is registered outside Norway. [10]

United Kingdom is one of the pioneers for introduction of tonnage tax 10 years ago resulting in rise of tonnage under UK flag while there has also been some lack of certainty in some aspects of the tonnage tax and UK's fiscal regime in general. During period of 2007 – 2010, the increase of tonnage was by 54.7%. Since 2008, a dramatic slowdown in trade and a collapse in shipping freight rates in 2009 this growth have been held back. Sea transport is in the UK is No.3 in of top export earners and positive contributor to employment through the tonnage tax regime. The number of cadets in training has more than doubled in the last ten years. The merchant fleet under UK registry and UK shipowners control is stable, last year increased by 1.2% to 21.5 mil. DWT.

Statistics on UK shipping usually include Isle of Man (IoM) flag registry being some kind of British FOC. The tonnage under UK + IoM shipowners control is about 32.2 mil. DWT with average increase of 5.9%. About 90% of the controlled fleet is under national flags. [10]

Italy with 17, 7 mil. DWT merchant fleet is on a fast rise of 32.5% during 2007–2010. Italian approach to State aid is based on establishment of the Italian International Register. 91.3% of Italian owned ships are entered in the Italian International Register, while 8.1% are entered in the Ordinary Register. A small proportion, about 3.8% of the total, of the Italian owned tonnage flies a foreign flag. [6]

Germany with the third largest merchant fleet under control of their owners, launched an initiative for the registration of ships under the German flag. German merchant fleet since 2000 has four times increased in size with an average growth rate of approx. 14 % per year over last decade. In container shipping Germany is the World leader with over one third of the controlled container vessel fleet. This position will also be kept in the future as German shipowners have ordered about 900 vessels representing 32 mil. GT on order. 243 of these 900 ships are containerships. While there is a positive summary of the German shipping policy in recent years, German Government is critical and consider whether State aid in a form of tonnage tax regime be prolonged.

Denmark registry (including DIS) with 13.3 mil. DWT merchant fleet is developing rather fast, by 25.6% during 2007 – 2010. Denmark is the fifth in the world by controlled tonnage of more than 50 mil. DWT. About 60% of the controlled fleet is under national flag. [8] Denmark is supporting revision of the EU State Aid Guidelines for tonnage taxation, income taxation and other types of State aid. [6]

Netherlands merchant fleet under national flag is growing, in 2010 being 7.8 mil. DWT, increased by + 56.6 % during 2007 – 2010. But still the shipowners and ships are deserting the Netherlands out of the necessity of cutting costs. This is showing that the Netherlands as a basic initiator for application of tonnage tax have insufficient shipping taxation regime. The Netherlands government has acknowledged that flagging out and the departure of companies and shore management from the country will have negative consequences also for national seafarers and for nautical education. [6]

Belgian merchant fleet tonnage at 12.5 mil. DWT last years was on a slight rise, by 8.8% annually. 47% of the Belgian controlled fleet was registered in the Belgian register, 44% in other EU registers and, unlike other European controlled fleets, just a minority of 9% in open registers. [6]

French merchant fleet of 8 mil. DWT (including FIS) is slowly developing. France does not use the tonnage tax system; instead, at the end of 2009 the guarantee scheme for ship financing, like for other companies in France may be used. It is not a state aid, there is a cost for the shipowner.

Sweden is serving negative example of governmental shipping policy. Because of political decisions in April 2009, it was announced that there would be no tonnage tax during the government's present term of office. As a result, the flagging out is the only solution for shipping companies and this is reflected in statistics: only 33.7% out of Swedish controlled fleet of 7.2 mil. DWT is under national flag. [6]

Spanish shipping is using Canary Island Special Register as a second one. Foreign flag is dominant by 67.3% out of 4.5 mil. DWT fleet. At the same time, Spanish registered fleet is decreasing and foreign registered increasing. [7] This apparently is because of inefficient shipping policy of the Spanish government.

In Portugal shipowners with the fleet of 1.2 mil. DWT are using Conventional Register and Madeira International Register, 25% of ships are flagged out. They are in need for an effective shipping policy, similar to those that have been successfully implemented in other EU countries. [6]

Polish shipowners control a fleet of 2.6 mil. DWT of which only 144 thousand DWT fleet or 5.5% is under national flag. A Tonnage Tax Act was adopted in 2006, formally approved by the Commission in December 2009 and came into force on 1 January 2011. [6] It is a hope that this State aid regime will improve the situation but pending on success of negotiations with trade unions.

Finnish merchant fleet is on stagnation with 1.2 mil. DWT under national flag. Revised tonnage tax regime is underway accompanied by difficult trade union negotiations but may improve the situation.

Latvian merchant fleet under national flag is small and in further decrease notwithstanding the State aid regime has been introduced in 2001. Flagging out (90%) is usual approach, including for Malta flag. Shipowners claim that too formal approach from the State revenue office is to be blamed. Lithuanian merchant fleet under national flag is on decrease having 0.3 mil. DWT size in 2010, now struggling the recession but introduction of tonnage tax is underway. Estonian shipping companies did not manage to pass the tonnage taxation law in the Parliament but hope to make it in future. The fleet under national flag is of 0.168 mil. DWT, the rest of the Estonian controlled fleet is flagged out including four vessels registered under the Latvian flag, which appears to be more favourable.

Bulgaria with 0.9 mil. DWT fleet under national flag still encounter massive flagging out (92.7%) notwithstanding tonnage tax regime, introduced some five years ago.

Romania with 0.2 mil. DWT fleet under national flag also use foreign registration (85%). Small fleet of Slovenia even 100% is flagged out. [10]

4 CONCLUSION

We may notice very different approaches to implementation of State aid schemes and maritime policy in European countries. Most of the countries, especially major maritime countries, are using Guidelines as provided in EC Communication C(2004)43 and these Guidelines are to prolonged and improved.

It should be noted also that in a number of European countries there is not enough political will to introduce State aid regime for shipping.

Introduction of tonnage tax system does not necessarily serve as an effective tool for preventing flagging out trends. More complex approach need to be taken. Extension of Guidelines to ship management companies is one of the ways which is under consideration in European Commission now.

Other State aid types also are important, such as Marco Polo program and State aid to shipbuilding.

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