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Galerie Agora,  
Rue du Marché aux Herbes 105, Bte 11  
B-1000 Brussels  
Telephone +32 2 285 46 60  
Fax +32 2 280 08 17  
Email: [etf@etf-europe.org](mailto:etf@etf-europe.org)  
[www.etf-europe.org](http://www.etf-europe.org)

European Transport Workers' Federation  
Fédération Européenne des Travailleurs des Transports  
Europäische Transportarbeiter-Föderation  
Federación Europea de los Trabajadores del Transporte

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## **Council conclusions on the Mid-Term Review of the EU's Maritime Transport Policy until 2018 and Outlook to 2020 (Athens Declaration)**

### **An ETF position paper**

*The ETF represents more than 2.5 million transport workers from 231 transport unions and 41 European countries in the following sectors: railways, road transport, maritime transport, inland navigation, civil aviation, ports and docks, fisheries and tourism. The ETF is the recognised social partner in seven European Social Dialogue Committees, including maritime transport.*

On the 5<sup>th</sup> of June 2014, the Council adopted conclusions on the mid-term review of the EU's maritime transport policy until 2018 and outlook to 2020, based on the so-called Athens Declaration<sup>1</sup> setting EU shipping policy priorities for the years to come.

The ETF welcomes the importance the Council is attaching to the EU maritime transport sector and wishes to acknowledge its keen interest in maintaining and further developing attractive, safe and sustainable quality shipping in Europe. However, despite a few positive statements and expressions of goodwill, the ETF considers that the above-mentioned Athens Declaration is a flawed statement that lacks a meaningful and unequivocal commitment to promote more and better jobs at sea for European domiciled seafarers, be they ratings or officers, particularly at a time when many EU Member States – amongst them countries with long maritime traditions – are faced with high unemployment rates particularly among young people and low take up of careers at sea amongst women.

The ETF line of reasoning set out below seeks to demonstrate that the Athens Declaration is only seemingly a good vehicle if the EU is serious about promoting not only the economic and environmental but also social sustainability of the EU maritime transport sector. The policy guidelines put forward in this Declaration are like the curate's egg, good in parts and those are right and merit the ETF entire support but these are few and far between, the others have few redeeming features.

### **1. Whose interests is the mantra of competitiveness and free trade meant to serve?**

The Athens Declaration is supported by countless references and argumentations on the need to adjust to the fierce global competition in which maritime transport operates and secure the competitiveness for the fleets of EU Member States. Interestingly enough, out of 7 pages, there are 17 occurrences of the words "competition", "competitive" and "competitiveness" whilst there is not a single mention of 'EU-domiciled seafarers'. However in shipping, as in other sectors, the mantra of globalisation and the perceived need for international competitiveness are increasingly invoked by the EU policy makers to justify inaction or laissez-faire policies which only serve the interests of those that are looking for an area of investment to generate private profit at the expense of the long-term social sustainability goals.

The points made in the Declaration and backed up by the EU Shipping Ministers serve to justify action not only to maintain and further develop safe and sustainable shipping – which is a praiseworthy objective per se – but also to further open maritime markets and access to cargoes without restraints. This vibrant plea for the promotion of fully liberalised international maritime services worldwide is a matter of great concern to the ETF. All the more since the international as well as European maritime transport markets are already largely liberalised and shipping operators enjoy this free market access with very little obstacles to international maritime trade.

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<sup>1</sup> The Athens Declaration and related material can be found on the [website of the Greek Presidency](#)

In the chapter on *European Shipping in globalised markets*, Shipping Ministers talk about intensifying efforts at bilateral, multilateral and international levels towards ensuring free access to markets and further liberalisation of trade in maritime services through, amongst others, Free Trade Agreements (FTAs). References are made to the Trade in Services Agreement (TiSA) which, in the Ministers' views, could serve as a vehicle for reaching a highly ambitious agreement for the shipping sector. Even though it is not explicitly mentioned, it is very likely that the Council is also thinking of the potential of the future EU-US Agreement on a *Transatlantic Trade & Investment Partnership* (TTIP) as well as the EU-Canada *Comprehensive Economic and Trade Agreement* (CETA) in that respect. But what worries the ETF is that the Ministers' Declaration can easily be interpreted as a thinly veiled attempt to undermine existing Maritime cabotage laws, such as the nearly century-old US regulation collectively known as the *Jones Act* which has proved invaluable to protect national seafaring jobs and secure a vibrant and prosperous maritime cluster (see also the ETF position paper on the EU-US TTIP negotiations).

The ETF holds the strong view that the approach described above is a profit-driven agenda which ignores the potential negative impact on national seafaring jobs. Moreover, the ETF believes that the expected EU shipping industry's increased market share is unlikely to be to the benefit of the employment of EU-domiciled seafarers and the safeguard of the European maritime know-how and thus the maritime cluster as a whole.

## **2. The EU-domiciled seafarers are an endangered species: are European Shipping Ministers prepared to save them?**

Although emphasising the potential of both shipping and related maritime services as significant sources of jobs and the importance of having competent seafarers with appropriate working conditions and employment rights – which is something the ETF clearly welcome – the Athens Declaration refrains from using the language of 'European(-domiciled) seafarers'. The Declaration elaborates further on the need to anticipate recruitment problems but again, it remains extremely vague about the workers' countries of residence. Is it so self-explanatory that when talking about maritime employment, EU Shipping Ministers mean 'European-domiciled seafarers'?

It is the ETF belief that the choice of terminology is hardly arbitrary: all the more since such an omission is in contrast with the many references made to the global context: 'global sea trade', 'global level playing-field' based on the effective implementation of minimum standards agreed internationally at IMO and/or ILO levels such as the ILO MLC, 2006 and the IMO STCW. Against this background, it is feared that when talking about maritime employment, the joint Declaration is referring to the overall labour market, not the EU labour one. Hence the Athens Declaration leaves a particularly bitter taste in the mouth as there is nothing to indicate that the support to a more competitive EU shipping sector will translate into job creation and training opportunities beyond international minimum standards for European-domiciled seafarers. This is all the more important as a reduced number of experienced EU-domiciled seafarers, both ratings

and officers, will lead to skill shortages in industries within the EU maritime cluster that demand seafaring expertise.

Furthermore, there is nothing to expect from the Athens Declaration as regards the unfair competition by Flag of Convenience (FOC) ships using EU ports and trading between EU countries. The latter are not regulated at the same level as European national flags. Too often, shipowners decide to flag out, use FOCs, and reduce their manning costs as far as possible, resulting in shipowners turning away from European Seafarers and replacing them with low-cost third country nationals. This represents a convenient device by which major shipping interests can both minimize their costs by lowering standards and avoid obligations to seafarers, such as social security protection, under national flags. The competitive advantage from non-compliance with domestic, EU and international legislation under FOCs and deregulated registers has been repeatedly denounced by the ETF and will continue to do. These practices undermine competition, promote social dumping and reduce employment opportunities for EU-domiciled seafarers. An example is the trend observed in Germany since 2008 towards flagging out. In fact, an increasing number of German shipping companies are reflagging their ships under FOCs such as Gibraltar or Cyprus, amongst others, while continuing to take advantage of the fiscal incentives – the tonnage tax – provided for in the EU State Aid Guidelines (SAG) arrangements. This is made possible by exploiting the loopholes of the EU SAG regime since the companies concerned continue to adhere to its requirements, i.e. using an EU flag, but at the same time they kill EU jobs and on-board training opportunities as neither Gibraltar nor Cyprus impose manning requirements with respect to the seafarers' nationality, contrary to what Germany does<sup>2</sup>. In consequence, Germany has experienced a sharp decline in the number of EU/German maritime jobs and trainees over the past years.

### **3. Is the obsession with the global level playing-field approach synonymous with more deregulation?**

It is clear that EU Shipping Ministers' preferred approach is to go for internationally-agreed rules and Conventions – at IMO and ILO levels in particular – and their worldwide ratification, effective implementation and enforcement. And when it comes to developing the EU regulatory framework, explicit reference is made in the Declaration to the so-called 'smarter regulation' concept to avoid supposedly 'unnecessary regulatory and administrative burden'. The ETF fears that this means in plain language: "laissez-faire" policy and no regulation at EU level and always deferring to international minimum standards. In this context, it should be noted that, as important as it is to promote the widespread ratification and implementation of the ILO Maritime Labour Convention, 2006, also known as the seafarers' Bill of Rights, it is not enough for the EU policy makers to transpose international minimum standards into EU law when what is needed is to set maximum standards.

Consequently, the question of developing further the EU maritime acquis is overlooked and when mentioned, it is mostly to focus on the environmental dimension: maritime safety, security and protection of the environment; or the question of the facilitation of

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<sup>2</sup> The German manning regulation requires that ships with a gross tonnage of more than 8,000 have to have at least five EU/German seafarers onboard.

trade by developing efficient EU-wide maritime services: digitalisation and simplification of administrative and operational procedures, the consequent reduction of administrative burden, the so-called e-Maritime services and the development of national single windows.

The ETF is definitely not downplaying the importance of regulating the above-mentioned areas in an informed way. Indeed, it should be said that any measure aimed at allowing for better environmental performance of shipping is certainly welcome. In addition, the reduction of administrative burdens for seafarers has been high on the agenda of the Sectoral Social Dialogue Committee (SSDC) for Maritime Transport where both ETF and ECSA have endorsed an Action Plan and a Joint Declaration aimed at making the most of EU-wide maritime services relying on modern technology so as to relieve seafarers from excessive administrative tasks. This should make the industry more efficient and more attractive for EU-domiciled seafarers.

However, the ETF calls upon the EU policy makers not to limit the development of the EU maritime *acquis* to a few areas when what would be needed is more regulation through a holistic approach to the human element in shipping.

#### **4. The granting of State aid to maritime transport must have conditions attached to generate jobs growth for EU-domiciled seafarers!**

EU Shipping Ministers are making a strong plea in favour of the continuation and further enhancement of the EU State aid regime for maritime transport which, in their views, is seen as a way of preventing flagging-out. The ETF is not questioning the merits of such a regime which helps competing on an equal footing with those third countries that have put in place similar schemes.

However, the ETF wishes to recall here that the original intentions of State Aid Guidelines (SAG) for maritime transport were to encourage the (re)flagging to Members States first registers and to keep the maritime know-how in Europe by enhancing and protecting the employment for European seafarers. The European Shipowners claim that both objectives have been achieved. The ETF does not at all see this reality in the same light! Although it is true that the EU-controlled fleet has somewhat grown, it is regrettable to see that the granting of State aid also benefited to FOC tonnage. This should not be allowed as FOC shipping represents a form of capital which is not subject to social and democratic control and furthermore, European owners using the FOC device deprive seafarers of jobs in the European region, resulting in some countries in high unemployment rates.

As far as the second objective is concerned, the picture is gloomier still. After many years of gathering proof from industry and ETF affiliated unions, there is overwhelming evidence that the existing state aid regime to maritime transport, both in the form of fiscal incentives – such as the tonnage tax and labour cost subsidies and reduction of wage taxes for instance – has had too little impact on training and employment of European nationals. At best it has maintained some jobs but has failed to increase the numbers of EU-domiciled seafarers across the Community. Against this background, there is a strong case for closing loopholes in the way such fiscal incentives are utilised.

This is why the ETF calls upon the Council and the Commission to allow the granting of subsidies on condition that aid recipients demonstrate EU taxpayers' money is resulting in job opportunities for EU nationals, for both ratings and officers, and more training, including more cadet berths. In short the EU taxpayer should get value for money and expect jobs growth.

In addition, the EU Policy makers should reflect on who should be characterised properly as a *bona fide* Community seafarer, as the current definition of 'Community seafarers' used by the European Commission – all seafarers liable to taxation and/or social security contributions in a Member State – is unacceptable, its legal validity is dubious and its application in a national context has led to unacceptable abuses. It is therefore necessary to tighten the state aid guidelines in respect of defining European seafarers so that only nationals residing on a permanent basis in a particular Member State should be regarded as Community seafarers. It is indeed not an unreasonable requirement to insist that tax incentives should generate jobs growth for European citizens, otherwise the skills basis in Europe, upon which the European maritime cluster depends, will suffer.

Interestingly enough, when presenting his political guidelines for the next European Commission before the European Parliament in June this year, Mr Juncker said: 'It is unacceptable to me that workers and retired people had to shoulder the burden of structural reform programmes, while shipowners and financial speculators became even richer.' Whilst most of European shipowners' are still realising high profit margins despite of the financial and economic crisis, and EU State aid regime for maritime transport continues to allow the granting of subsidies to many European shipowners with a few conditions, the statement made by the Commission President has a special resonance...

**5. Exploiting the full potential of Short Sea Shipping (SSS)? The answer is a definite YES, provided this will benefit not only business and EU citizens, but also quality jobs for those serving on board EU-controlled vessels.**

Shipping Ministers pointed out the need for SSS to play a stronger role in the EU with the idea of shifting long-distance transport away from roads in order to address capacity, energy and climate challenges they claim. But again, with the EU Maritime Transport Space without Barriers, what EU Ministers want seems not to be about workers' protection as no explicit references are made to initiatives aimed at providing more job opportunities for EU-domiciled seafarers and fighting against social dumping.

As for the ETF, the promotion of intra-Community shipping is not only about making business grow and serving the interests of consumers in Europe. SSS should also contribute to promote the recruitment and retention of a highly skilled European workforce, ratings and officers, to take up a career in the maritime industry. Therefore, the ETF calls on the EU policy makers to take effective and expeditious steps for regulating, the highly unregulated intra community trade, by introducing for this sector a level playing field, so as to enforce acceptable social standards on board ships trading within the European Community and stop the downwards spiral in salaries, working

conditions and discriminatory practices on grounds of nationality and/or place of residence or flag of registration.

To achieve this, the EU legislator is invited to submit a revamped Directive on manning conditions for maritime services operating between Member States. Such long-awaited legislative framework should be based on the ITF Common Policy on European Ferry Services, the so-called “Athens policy”, which aims to ensure that the employment conditions on-board a ship operating between different States are those of the country which applies the higher employment terms and conditions.

Finally, special mention should be made of what is said in the Athens Declaration about enhancing connectivity and in particular, the promotion of better connections of islands and long-distance intra-EU passenger and freight transport through quality ferry services. It is also highlighted that this could be achieved by taking advantage of the funding opportunities provided in the EU financial perspectives. The ETF wishes to commend this statement and looks forward to seeing how these good intentions will be translated into effective action.

## **6. Investing in the human element: the only way forward!**

Some positive statements are made in the Athens Declaration under the chapter on *Human Resources, Seamanship and Maritime Know-how*, and this should be welcome. Amongst them:

- The need to increase employment in the maritime sector as a whole;
- The fair treatment of seafarers in the event of maritime accident to guarantee their welfare;
- Enhancing the attractiveness of maritime careers;
- Career mobility between on- and offshore jobs to support the functioning of EU maritime clusters.

However, it is unfortunate that despite these positive declarations of principles, no outward actions seem to be taken to address the many challenges affecting the human element in Europe. And it remains unclear whether these recommendations, if transposed into concrete action, would benefit to EU-domiciled seafarers or instead to the global maritime labour force. Besides, the concept of mobility as mentioned by the EU Ministers can hardly be supported if this is only about shifting the work force from sea to shore-based occupations.

## **7. What should be the appropriate agenda for tomorrow’s EU shipping sector?**

For the reasons described above, the ETF doubts that the guidelines laid down in the Athens Declaration are all suitable and is of the firm belief that the EU maritime transport agenda up to 2020 that is pursued by the Council should be significantly revised.

In the ETF's views, the appropriate agenda to be pursued is the re-orientation of the EU shipping in a new direction which – as a minimum – would ensure, amongst others, the following:

- More and better jobs at sea for European-domiciled seafarers, officers and ratings;
- Redefining the concept of "Community seafarer" in the context of the State Aid Guidelines, so that they serve the purpose for which they have been introduced, including the non-granting of such state aid to flag of convenience tonnage, controlled by EU shipowners;
- Improve training, recruitment, job prospects and retention of European-domiciled seafarers, officers and ratings, thus ultimately preserving European know-how and maritime skills for the EU maritime cluster;
- Achieve safer and quality employment conditions on vessels trading in European waters, including maximum hours of work and minimum hours of rest;
- Revival of the Manning Directive, so as to create the legislative framework for the implementation of ITF Common Policy on European Ferry Services, the so called "Athens Policy", aiming at achieving a level playing field in the intra community ferry sector;
- Reinforce national collective bargaining mechanisms and oppose any attempt whatsoever aimed at deconstructing such mechanisms, provided in ILO core instrument;
- Determine transparent and mandatory adequate manning scales which can effectively combat fatigue and stress of seafarers and ultimately protect safety of life at sea;
- Promote the concept of Fair Transport amongst shipowners and /or the EU legislators;
- The commitment by EU Member States to effectively implement and enforce both the IMO/ILO Guidelines on the Fair Treatment of Seafarers in the Event of a Maritime Accident and the IMO Code for the investigation of Marine Casualties and Incidents.

In conclusion, the ETF calls upon European Governments – and Shipping Ministers in particular – European Institutions, as well policy makers concerned, to firmly engage with European seafarers in the promotion, as soon as possible, of the above-mentioned minimum set of proposals to achieve the economic, environmental and social sustainability of the maritime industry in Europe.

Brussels, September 2014

*For further information please contact:*  
**Philippe Alfonso**, ETF Political Secretary for Maritime Transport  
Tel. +32.2.285.45.84, email [p.alfonso@etf-europe.org](mailto:p.alfonso@etf-europe.org)