

A EUROPEAN MARITIME SPACE



FOR SOCIALLY SUSTAINABLE SHIPPING

CONCEPT NOTE



EUROPEAN
STANDARDS
IN EUROPEAN
WATERS



EUROPEAN TRANSPORT
WORKERS' FEDERATION

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Introduction

Shipping companies operating in European waters can recruit their seafarers globally. European seafarers are therefore competing directly with seafarers coming from countries with much lower employment terms and conditions. This creates downward pressure on terms and conditions and social protection for European crews, thus paving the way to social dumping in European waters. The resulting situation distorts competition and could adversely affect safety and the environment.

Reduced job opportunities for European seafarers negatively impact the attractiveness of the profession, discouraging young people from considering a career at sea. This could lead to a shortage of maritime personnel and an erosion of maritime knowledge and skills in traditional seafaring countries in the EU. Without a domestic maritime skills base, it will be difficult for those countries to develop effective maritime policies and their maritime clusters. At the same time, the lack of highly qualified European maritime professionals will make it difficult for Europe to develop sustainable and quality shipping services.

If Europe is serious about protecting its maritime jobs and maritime skills base, reducing transport greenhouse gas emissions, facilitating a modal shift by releasing the potential of short sea shipping connections, and rejuvenating its maritime clusters for the benefit of the broader European economy, then the concept of a European Maritime Space for socially sustainable shipping offers a solid foundation to build on.

Since we consider the Commission, and its Directorates-General for Transport and Employment in particular, to be active players in this context, we call on these policy-making bodies to show political will and take action. **Let's organise for tripartite discussions between ETF, ECSA and the EC and jointly explore how EU initiatives could contribute to sustainable and quality shipping in Europe by promoting a race to the top instead of a race to the bottom.**

Executive summary

The ETF has developed a concept of a “European Maritime Space for Socially Sustainable Shipping” (EMS) with the support of academics and international researchers. The main rationale of the concept is that seafarers working in European waters should be treated in the same way as shore-based workers. Research shows that there is nothing within the Treaty of the European Union or secondary legislation that prevents such equal treatment. Shipping companies benefitting from the freedom to provide goods and services within the Union should therefore also abide by EU social *acquis* regarding employment conditions for their workers.

The EMS concept would only cover those shipping services operating regularly in EU/EEA waters – no matter whose flag they are flying.¹ Employment conditions on board those categories of vessels would be subject to collective bargaining between shipping companies and the seafarers’ unions of the countries whose ports the vessels are calling at. Those unions would have the power to represent all seafarers on board those vessels, including third-country seafarers working in EU/EEA waters. They would also observe compliance with the collective bargaining agreements (CBAs) that they would enact together with the companies. Port State Control officers would play a role in onboard monitoring of the adherence to these agreements. In this regard, Member States would have to provide the necessary resources for carrying out the necessary inspections.

An EMS would need to be backed by a revamped EU maritime transport policy in order to support the industry and its workers. This would need to include a better framework for state aid to maritime transport in terms of quality training and job creation and in terms of enforcing and monitoring the related guidelines. We must make sure that shipowners benefiting from those aids ensure the best value for EU taxpayers’ money.

The implementation of an EMS would create a level playing field for shipping services within the EU, and prevent unfair competition between shipping companies that are operating according to EU standards and those that are engaging in substandard practices. It would ultimately benefit the development of high quality maritime clusters and safeguard job opportunities for European maritime professionals and the European maritime skills base.

1 Ways of enhancing employment opportunities for European seafarers involved in international deep-sea shipping should be open for a separate discussion.

Problem analysis

What is social dumping in European waters?

Social dumping practices are undermining workers' rights throughout Europe. Especially in the transport sector with its mobile workers, companies conveniently take advantage of loopholes in existing EU regulations to cut costs and attract the cheapest labour. This is particularly evident in European shipping, where, by contrast with shoreside industries, it is legally possible to employ third-country nationals on board regular intra-EU/EEA services and pay them far below European standards. Such practices infringe upon the principle of equal treatment and enable discrimination between seafarers in terms and conditions on grounds of nationality and/or place of residence.

The result is downward pressure on working conditions and jobs for European seafarers. A recent report by the ITF-OECD confirms that "the number of EU seafarers seems to have declined in main European maritime countries. Trends observed in countries like France, Germany and the UK, suggest a steady decrease in the number of domestic seafarers."² Other studies confirm that expensive European labour (mainly lower ranks) has been replaced by cheaper labour from Asian countries like the Philippines.³ According to Oxford Economics, the EU shipping industry directly created around 516,000 sea-based jobs of which only around 40% are held by EU or EEA nationals.⁴ **This means not even half of the crew positions on these EU-controlled vessels are filled by European seafarers.**

Companies can 'flag-out' or relocate to certain countries to circumvent collectively agreed working conditions including wages

How is this possible? **Flags of Convenience (FOCs)** are ship registrations in states that offer more relaxed regulations. Companies can 'flag-out' or relocate to certain countries to circumvent collectively agreed working conditions, including wages. The current system opens the door to minimal regulation, cheap registration fees, low or non-existent taxes and the freedom to employ cheap labour from anywhere in the world. **In practice, the FOC system allows companies to operate regular services in European waters without applying EU**

2 Maritime Subsidies: do they provide value for money?, O. Merk, ITF-OECD, September 2019.

3 How to enhance training and recruitment in the shipping industry in Europe, University of Groningen, the London Metropolitan University and the University of Nantes, March 2011.

4 The economic value of the EU shipping industry – update, Oxford Economics, February 2017.

social standards to their workers. Within this system, it is very difficult for companies under European registries to compete and they tend to 'flag-out' to other registers.

More than 40% of the world's fleet is controlled by companies from Europe.⁵ 36% of the world fleet is controlled by companies from the EU.⁶ Today only 18% of the world fleet sails under an EU Member State flag compared to 34% in 1980.⁷ **This means that almost half of the fleet controlled by EU shipping companies have 'flagged out'.**

Responding to the trend of 'flagging-out', European countries started to establish international second registers which helped in keeping part of the EU fleet under EU flags, but at the same time opened the door for shipping companies to engage in substandard shipping under EU flags. Some of these second

registers are as lax as FOCs when it comes to taxes, fees and employing cheap labour. Even some European first registers could easily be qualified as FOCs, paving the way for unfair competition between EU registries. This means that even if European seafarers are working onboard EU-flagged vessels and should have access to the same social rights as onshore workers, they are still often discriminated against or subject to unfair competition.

According to EMSA, about 36% of masters and officers available to serve on board EU-flagged vessels come from non-EU countries, of which about 20% are from Asian countries. Same statistics point out that ratings able to serve on the EU-fleet in 2017 came from 98 different countries (29 EU and 69 non-EU).⁸ And although EU seafarers should, according to EU law, receive decent social protection, many of them have difficulties in acquiring it. A case in point is the story of Belgian seafarers not receiving any social security contributions from Cyprus. A group of seafarers living in Belgium and working under the Cypriot flag have not been receiving the protection under the Cypriot social security system, despite Cyprus being the member state responsible for seafarers sailing under its flag, according to European legislation.⁹ Cypriot legislation that fails to apply the country's social security system to



5 UNCTAD, Review of Maritime Transport, United Nations Publication 2018.

6 Clarksons Research.

7 UNCTAD, Review of Maritime Transport, United Nations Publication 2018.

8 Seafarers' Statistics in the EU, EMSA, 2017.

9 According to article 11.4 of Directive 883/2004 on the coordination of social security systems.

seafarers sailing under its flag could be considered as a form of unfair competition towards shipowners that sail under other EEA flags. Cyprus is the biggest flag within the EEA, which suggests that the problem is likely larger than the mentioned example of seafarers who have complained through the Belgian unions.¹⁰

Why is shipping treated differently from other sectors?

The fact that shipping companies often operate on a global level paved the way for the adoption of a **specific international regulatory framework**. The Maritime Labour Convention adopted at the International Labour Organisation (ILO) and other international conventions adopted at the International Maritime Organisation (IMO) stipulate international minimum standards for issues such as employment and working conditions, training, security, and safety. These rules and regulations are important for creating a **level playing field** and eradicating unfair competition on a global level.

If we translated **the same rationale** to the **smaller scope** of shipping services regularly operating in EU/EEA waters, then the **minimum international standards should be replaced with EU standards**. Otherwise, there is unfair competition within EU/EEA waters.

The idea that international minimum standards in shipping suffice has led to the exclusion of seafarers from numerous EU Directives. Recently, seafarers have been included in some EU social Directives,¹¹ but they are still being denied the same rights as workers in land-based industries. For instance, European seafarers are

excluded from the Directive on Transparent and Predictable Working Conditions – part of the European Pillar of Social Rights – which would, among other things, grant them the right to be informed about their social security coverage. There is also a separate regulation on working time for European seafarers, which allows for far more working hours to be legally acceptable at sea than on shore. No matter the reasons for this specific rule, this

The idea that international minimum standards in shipping suffice has led to the exclusion of seafarers in numerous EU Directives

10 The Royal Belgian shipowners' association (KBRV) and the representatives of Belgian seafarers BTB and ACV-Transcom filed a complaint to the European Commission against Cyprus and requested the European Commission to do all that is necessary to ensure Cyprus would respond to all its social obligations imposed by Directive 883/2004 towards all EU seafarers sailing under its flag.

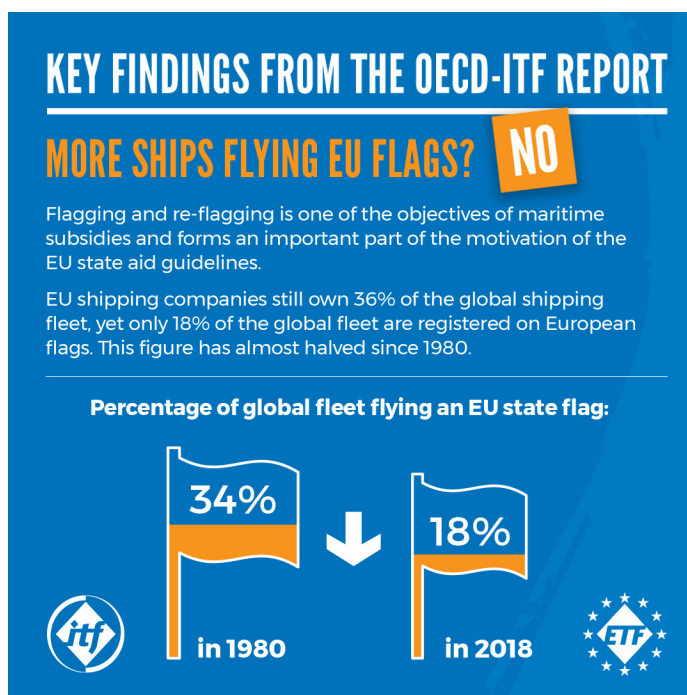
11 Directive 2015/1794/EU amended the scope of five EU labour law Directives by including seafarers in Directive 2008/94/EC on the protection of employees in the event of the insolvency of their employer, Directive 2009/38/EC and Directive 2002/14/EC on information and consultation of employees, Directive 98/59/EC on collective redundancies, and Directive 2001/23/EC on safeguarding employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses.

situation has adverse effects on seafarers' health, safety and wellbeing. The occurrence of occupational deaths, injuries and illnesses is far higher among seafarers than in land-based professions. Mental health issues, stress and fatigue are problems seafarers deal with on a regular basis.

A study from Oslo University¹² shows how EU shipping is treated differently from other economic sectors in Europe without any legal or moral justification. The study states that "the provision of maritime services does not differ, and should not differ, from the provision of other services. Thus, **the protection of workers' rights in the maritime sector should not differ from the protection offered to workers in other sectors.**"

The 'Oslo study' concluded that the only reason for the different treatment is due to a political choice: "There are (...) no legal obstacles to the introduction of a system that ensures fair working conditions within the European

Maritime Space. (...) Neither are there practical hindrances to the inclusion of the provision of maritime services in the European Pillar of Social Rights. The differences that do exist seem rather to be **the result of (a lack of) political will.**"



Has state aid for shipping companies worked to counter these trends?

State aid for the shipping industry was originally aimed at bringing the EU fleet back to EU flags. The rationale behind the decision was that if enough incentives were given, shipping companies would see the benefits of registering their ships in EU countries. This would strengthen the EU economy, promote the development of maritime clusters and boost employment for European seafarers and maritime professionals.

The European Commission stated in its implementation report of the EU Maritime Transport Strategy 2009-2018 that "by allowing reduced rates of contributions for the social

12 Fair wage and working conditions within the European Maritime Space, Professor Finn Arnesen & Professor Tarjei Bekkedal, Scandinavian Institute of Maritime Law, Centre for European Law, University of Oslo, October 2019.

protection and reduced rates on income tax for EU seafarers, the Community guidelines on State aid to maritime transport have created more favourable conditions for employment of EU personnel, especially on board passenger ferries operating intra-Union routes.”

Creating favourable conditions has not been enough to achieve the desired outcome. A recent report from the ITF-OECD¹³ demonstrates that none of the above objectives is being met and that, on the contrary, no evidence can be given that state aid has contributed to re-flagging, or has aided the development of maritime clusters. It has, at the most, stabilised the decline of EU seafarers. Data confirms that **maritime subsidies fail**

to achieve their desired effect and have not prevented a continued race to the bottom.

Shipowners who have received state aid from, or through, the EU have a huge responsibility in this regard and should make a return on the investment they have received in the form of job creation, adequate training and high quality employment.

There is no doubt that Europe needs maritime subsidies. Schemes like the tonnage tax¹⁴ are necessary for the EU shipping industry to survive in the global hotbed of unfair competition. But unless the FOC system is completely reformed, European shipping will need financial support. So, the question concerning maritime subsidies in EU shipping is not “if” but “how”. Europe must support the sector but in a different and more efficient way.

Data confirms that maritime subsidies fail to achieve their desired effect and have not prevented a continued race to the bottom

13 Maritime Subsidies: do they provide value for money?, O. Merk, ITF-OECD, September 2019.

14 A more favourable tax regime based on the tonnage of a ship which replaces regular corporate income tax in shipping.

The concept of a European Maritime Space without social dumping

Which myths need to be broken?

“Shipping is a global industry and should be treated differently”

The idea that shipping should be treated differently because of the existing international framework needs to be challenged. **The flag state principle should not be a hindrance to the general application of EU law and protection.** The ‘Oslo study’ confirms that: “Not only is it unproblematic to impose Community employment conditions on seafarers with a nationality of a third State where either the vessel is flagged in an EU Member State or is operated by a company established in the Community. EU law, the substantive right to free movement in particular, cannot, (...) be invoked in combination with the flag state principle in international law.”

Moreover, the Maritime Labour Convention, 2006 (MLC) introduces a floor of minimum rights for seafarers and contains a non-regression clause, which indicates that the MLC is not intended to reduce rights which are derived from other sources. The rights derived from EU law enjoy a much stronger enforcement regime than those emanating from ILO instruments. Seafarers should not be left to rely on weaker ILO enforcement when other workers are protected by the EU concept of the right to an effective remedy.

In addition, the concept of EMS does not include deep-sea shipping and would **only cover those shipping services operating regularly in EU waters** – which should therefore be treated in the same way as other services operating within the EU territory. Within this scope, the argument of **the “fierce international competition”** as it exists in liner shipping is irrelevant – the EMS would take away the basis for unfair competition between companies operating within the EU since a level playing field would be established, based on a flag-blind principle.

“An EMS will make shipping less competitive towards other transport modes”

It makes sense to invest in high quality shipping within the EU/EEA in order to develop intra-EU/EEA short-sea shipping as a truly attractive alternative to land transport. Shipping accounts for 37% of intra-EU trade while road transport still represents around 45%.¹⁵ In view of the need

¹⁵ Short Sea Shipping, the full potential yet to be unleashed, ECSA, February 2016.

to reduce road congestion and improve the efficiency of logistics chains, water-based transport should be encouraged. **But as long as Europe tolerates substandard transport and cheap labour in its territory, transport modes will keep competing on labour costs in particular.** Social dumping, therefore, needs a holistic approach for it to be eradicated, not only in shipping but in all economic sectors within the EU. Only then can we stop the race to the bottom.

“An EMS is another name for a European Jones Act”

Discussions on crewing conditions are not new. The EU Commission proposed a draft Directive on “manning” conditions for regular passenger and ferry services operating between the Member States in April 1998 (COM/98/0251), and the European Parliament approved the proposal in March 1999. In 2004, a revised proposal dating from 2000 (COM/2000/0437) was rejected by a blocking minority at Council level. The EU Commission subsequently passed the topic to the European Social Partners and requested ETF and ECSA¹⁶ to conclude a binding agreement (as provided for by Article 152 of the TFUE) on the issue. Despite repeated appeals by ETF to enter into negotiations on issues related to crewing conditions, discussions at the level of the European Sectoral Social Dialogue for maritime transport have not progressed.

It is worth remembering that a central point of the draft Directive, as revised in 2000, was that workers on a ferry operating between the Member States should primarily be nationals of one of the two states the ship is moving between. If that is not the case, then workers of any nationality on the route in question should be subject to the same national pay rates as all other workers in the state concerned. A key provision of the draft was its Article 2.2: “If the vessel used is not registered in a Member State, the terms and conditions referred to shall be those applicable to the residents of one of the Member States between whose ports the service is provided and with which the service has the closest connection. The closest connection shall be determined on the basis of the place from which the service is effectively managed.”

In 2007, the Commission presented the idea of a “European maritime transport space without barriers”.¹⁷ The idea was to improve the efficiency and competitiveness of the European maritime leg by extending the internal market to intra-EU maritime transport through the

Social dumping, therefore, needs a holistic approach for it to be eradicated not only in shipping but in all economic sectors within the EU

16 The European Community Shipowners’ Associations, ECSA, is the officially recognized European social partner representing shipowners.

17 COM(2007) 575 final, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and The Committee of the Regions, “An Integrated Maritime Policy for the European Union”.

elimination or simplification of administrative procedures. The proposal, however, did not contemplate or provide practical solutions to the implications this would have on flag status, employment conditions or competitiveness, and was not further pursued.¹⁸

A report of the Task Force on maritime employment and competitiveness published in 2011 by the EU Commission stated that “it would be useful for Member States to have a clear legal basis in EU law for establishing manning conditions on vessels providing offshore services in their waters”. This recommendation, although very limited in scope, did not bear fruit either.

Now, more than 20 years after the original proposal by the Commission, ETF is putting the EMS concept on the table as a basis for reopening discussions with stakeholders on European seafarers’ employment. But contrary to the US Jones Act, **the EMS concept does not take nationality as its starting point**. The EMS concept – as described in detail below – **is based on a set of principles and values shared by the EU Member States and enshrined in Article 2 TEU and the European Pillar of Social Rights**. These principles include respect for human rights and human dignity, freedom, democracy, the rule of law, non-discrimination, tolerance, justice, solidarity, equal opportunities and access to the labour market, fair working conditions, social protection and inclusion. Consequently, this includes the expectation that state aid ultimately benefits the society that finances it.

The core of the EMS Concept

The concept of an EMS consists of two underlying rationales which address the issues as defined in the first chapter.

- 1. Companies benefitting from EU law should also apply EU standards to their workers;**
- 2. Companies benefitting from EU state aid should produce quality training and jobs.**

Companies benefitting from EU law should comply with EU social and labour legislation

The concept is based on the argument that companies that benefit from the EU economic freedoms should have the duty of care to abide by the EU social and labour legislation. Since free movement within the EU rests upon the idea that the Member States share a common set of values (Article 2 TEU), it is contradictory to use this right as a means to freely import third-country wages and working conditions into the EU.¹⁹

18 Challenges in European Short Sea Shipping, Laboratory for Maritime Transport, National Technical University of Athens, Athens, Greece, October 2009.

19 Fair wage and working conditions within the European Maritime Space, Professor Finn Arnesen & Professor Tarjei Bekkedal, Scandinavian Institute of Maritime Law, Centre for European Law, University of Oslo, October 2019.

Where the freedom to provide goods and services within the EU/EEA is established, seafarers working in that space should also be treated as working within the EU territory. In its publication on short-sea shipping, ECSA states that “Goods carried on such ships could, therefore, be treated in the same way as those carried on land, and deemed to be Union goods unless identified otherwise.”²⁰ If the goods could be treated as Union goods, then surely the seafarers transporting them could be treated likewise.

EU labour and social law (European terms and conditions of employment) should therefore apply to all seafarers working on vessels regularly operating in EU/EEA waters, no matter the flag they fly.

As mentioned in the first chapter, Directive 2015/1794 deleted the specific exclusion of seafarers from a number of key labour and social law Directives, putting seafarers on an equal footing with shore-based workers. This had been achieved after a lengthy procedure involving the European social partners in maritime transport, ETF and ECSA, who reached an agreement on the need to guarantee seafarers the same level of protection as that of workers onshore.

In addition, Directive 2015/1734 specifically states that “the existence of, and/or the possibility of introducing, exclusions may prevent seafarers from fully enjoying their rights to fair and just working conditions and to information and consultation, or limit the full enjoyment of those rights. Insofar as the existence of, and/or possibility of introducing, exclusions is not justified on objective grounds and seafarers are not treated equally, provisions which allow such exclusions should be deleted.”

If the goods could be treated as Union goods, then surely the seafarers transporting them could be treated likewise

Moreover, Directive 2015/1794 refers to the fact that “the Union should strive to improve working and living conditions on board ships, and to exploit the potential for innovation in order to make the maritime sector more attractive to Union seafarers, including young workers.”

The development of an EMS would help Commission keep its promises regarding social rights (as enshrined in the European Pillar of Social Rights), the fundamental values of the Union (as enshrined in Article 2 TFEU) and the intention to improve working conditions in maritime transport, as well as to make the sector more attractive to Europeans.

Within a European Maritime Space, European employment conditions would apply to both those working in the EU ashore as well as those working in the EU at sea, putting into

²⁰ Short Sea Shipping, the full potential yet to be unleashed, ECSA, February 2016.

practice the idea of ‘the same remuneration for the same work in the same jurisdiction’. As long as a vessel is providing regular services within EU/EEA waters and between EU/EEA Member States, it should apply employment conditions according to EU standards to all those working onboard – regardless of nationality or place of residence and no matter whose flag the vessel flies.

A level playing field among seafarers and among shipping companies would be created

We propose to define the vessels that are operating in EU/EEA waters regularly as ‘vessels that provide services from and/or to ports situated in geographical Europe (including the continental shelf) and regardless of the flag they fly’.

This way, a level playing field among seafarers and among shipping companies would be created. Unfair competition based on substandard shipping or avoidance of EU standards would be prevented, provided that all necessary measures to monitor implementation are installed.

Companies benefitting from EU state aid should produce quality training and jobs

Companies that benefit from state investment in their operations should have the duty to **use EU citizens’ money to provide training, employment and decent work** for those same citizens. As demonstrated by the ITF-OECD study on maritime subsidies, the existing practice of state aid to shipping neither materialized into a notable increase in the number of vessels registered under EU flags nor did it open up significant job opportunities for domestic seafarers. EMS foresees the granting of subsidies to the EU shipping industry as **transparent, reported, and strictly conditioned**, and based on training provision, job creation, and high quality employment according to EU standards. These conditions would be **rigorously monitored and enforced**.

Implementation

Which regulatory changes are needed?

On employment conditions

The Oslo study concludes that from a legal perspective, it is possible to impose EU employment conditions on seafarers with the nationality of a third State. This can happen when either the vessel is flagged in an EU Member State or is operated by a company established in the EU. **Seagoing workers should therefore be integrated into the scope of the EU legal framework governing employment conditions, such as the European Pillar of Social Rights.** This means that the EU legal framework governing employment conditions should apply on board vessels that are providing services from and/or to ports situated in geographical Europe (including the continental shelf), regardless of the flag they fly.

The responsibility to determine the jurisdiction and the level of wages and other employment conditions would be **delegated to the Social Partners** (in accordance with Article 152 TFEU). Issues such as maximum work periods and minimum rest periods, minimum paid annual holidays, minimum rates of pay, health, safety and hygiene at work, provisions on non-discrimination, would become the subject of collective bargaining between:

- the shipping companies; and
- the unions from the countries at whose ports the vessels are calling.

These agreements would apply to all nationalities of the crew on board the ships that are covered by it.

Therefore, Social Partners would need to be empowered to:

- declare that the principle of “the same work in the same jurisdiction should be remunerated in the same manner” is observed; or
- enact collective agreements which would sufficiently ensure respect for the principle.

In addition, Social Partners would need to be empowered to:

- establish agreements specifying to which territory the provision of a maritime service is to be attributed; or

- Decide that the provision of a maritime service should be attributed solely to the territory of one Member State, even though the vessel occasionally operates in the waters of other EU Member States.

Seafarers' unions of EU Member States would then need to be able to represent EU and third-country seafarers before national and EU bodies, including courts.

A Social Partners Agreement between the European Social Partners for maritime transport, ETF and ECSA, could serve as a starting point for developing a legal framework for implementation. This framework would set out a default legal position that would apply if national social partners cannot agree on a CBA.

A Social Partners Agreement between the European Social Partners for maritime transport, ETF and ECSA, could act as a starting point

This practice would be **without prejudice to Regulation 3577/92 of 7 December 1992** or to existing agreements that already systematically apply the highest standards.

On State Aid

The OECD-ITF report suggests that state aid to the maritime transport sector should be continued, but made more conditional. It is not enough just to increase the number of vessels registered under European flags. Any favourable fiscal treatment should above all actively support job creation, recruitment and retention of, as well as training for European-domiciled seafarers. The conditionalities of state support to the shipping industry should be tackled at both European and national level.

This means that the European Commission needs to change its approach to assessing whether Member States' subsidy programmes are compatible with state aid rules, by:

- fixing and applying **strict conditions** in terms of employment and training;
- making any Member State that provides maritime subsidies **accountable** for responding to these conditions;
- making the process transparent: developing a rigorous **monitoring and enforcement** regime; and
- establishing a **stricter link between the provision of subsidies and the requirement to fly an EU/EEA flag and employ EU/EEA seafarers**, especially when the ship is operating mainly in European waters.

Whose support is needed?

In order to initiate the process of further developing an EMS and putting it into practice, the support of the following stakeholders is needed:

- **European Commission:** the EC has a key role in initiating policy and displaying an ambition for a revamped European maritime transport strategy.
- **EU Member States' governments:** Member States' support is needed to adopt any regulatory framework or make any adaptations to national legislation that may be needed to avoid conflict with the needed changes.
- **European Social Partners:** the EC could facilitate the process by starting off a tripartite discussion or working group that would include legal experts – this could result in negotiations for adopting a new Social Partners Agreement.

In order to implement the EMS concept, support of different stakeholders is needed:

- **Shipowners and shipping companies** that operate regular services within the EU/EEA would need to systematically engage in collective bargaining on wages and working conditions with European seafarers' unions no matter the flags their vessels are flying.
- National **unions representing seafarers in EU/EEA Member States** should enter into negotiations and observe the enacted CBAs. These unions should be able to enter into negotiations irrespective of the nationalities of the crew on board and should be able to represent EU and third-country seafarers before national bodies and EU bodies, including courts.
- **Member States** would need to equip Port State Control services with sufficient resources to ensure that there are no violations of the applicable CBAs on board in order to eliminate unfair competition in EU waters.
- **European Commission** would need to rigorously monitor the way state aid to shipping is granted and the way the recipients are responding to their obligations in terms of training and employment.
- **EU agencies** such as the European Maritime Safety Agency (EMSA) and the European Labour Authority (ELA) may need to be equipped to provide support to the Member States and social partners in monitoring and control of terms and conditions in EU/EEA waters according to established agreements between social partners.

What benefits would it bring?

An EMS would create and **ensure a level playing field** in EU shipping which would stop the race to the bottom and the practice of unfair competition:

- between shipping companies that abide by EU law and those that engage in substandard shipping or avoidance of EU social legislation;
- between European (domiciled) seafarers and third-country seafarers on wages and working conditions; and
- between member states' flags.

An EMS would additionally:

- contribute to **ending the existing discrimination** between seagoing workers and shore-based workers within the EU;
- **put a halt to the use of double standards** when it comes to shipping, and would clarify that EU legislation should be applied in EU waters instead of (much) lower standards from countries where the ship is flagged;
- **ensure that public investments** made by society to promote an industry, also **provide returns** in the form of job creation, adequate training, and high quality employment; and
- increase standards related to training and wages to an EU level (be it through collective bargaining or monitoring of state aid) and ultimately contribute to the **quality development of EU maritime clusters and the preservation of the skills base in European shipping**.



The European Transport Workers' Federation

The ETF represents more than 5 million transport workers from more than 230 transport unions and 41 European countries, in the following sectors: railways, road transport and logistics, maritime transport, inland waterways, civil aviation, ports & docks, tourism and fisheries.

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