Opinion of the European Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States of the Community and repealing Directive 2002/6/EC'

COM(2009) 11 final — 2009/0005 (COD)

and the

'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Communication and action plan with a view to establishing a European maritime transport space without barriers'

COM(2009) 10 final

(2010/C 128/25)

Rapporteur: **Mr IOZIA**

On 27 February 2009 the Council decided to consult the European Economic and Social Committee, under Article 80(2) of the Treaty establishing the European Community, on the

Proposal for a Directive of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States of the Community and repealing Directive 2002/6/EC

COM(2009) 11 final – 2009/0005 (COD).

On 21 January 2009 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Communication and action plan with a view to establishing a European maritime transport space without borders

COM(2009) 10 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 September 2009.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 4 November), the European Economic and Social Committee adopted the following opinion by 159 votes to two, with one abstention.

1. Conclusions and recommendations

1.1. The EESC takes an overall positive view of the Commission's communication on establishing a European maritime space and the proposal for a directive on reporting formalities for ships arriving in and/or departing from Member State ports, repealing Directive 2002/6/EC.

1.2. The proposed work programme is ambitious and well-structured, with a coherent action plan apt to meeting the proposed objectives. The reduction and rationalisation of administrative formalities, to be defined in such a way as to avoid impacting upon the current levels of safety and quality of the necessary controls, are crucial to improving inward and outward port traffic.

1.3. Improving port activity could lead to rationalisation of the transport of goods, flowing from land to maritime transport, thereby boosting intermodality between sea, rail, inland waterways and roads, as indicated in the White Paper on transport and emphasised in the Mid-Term Review.

1.4. A number of specific proposals in the communication need to be looked at more closely, and the EESC urges the Commission to set up forums for all stakeholders, covering the following issues: pilot exemption certificates, formalities concerning the simplification of carriage of dangerous goods, carriage of plant and animal products and coordination of port inspections (*one-stop shop*).

1.5. The EESC has made its views clear on previous occasions regarding the specific nature of port pilot services [1], and this position is still relevant today.

1.6. In its Communication on Strategic goals and recommendations for the EU's maritime transport policy until 2018, the Commission itself has pointed out that the 'growing shortage of maritime professionals, officers and ratings entails the risk of losing the critical mass of human resources that sustains the competitiveness of the European maritime industries in general'.

1.7. The proposal regarding pilot exemption certificates could further reduce this activity, and would make this occupation less attractive to many young people. Reliable studies or analyses must be carried out showing the potential positive effects, whereas the negative effects on employment and safety would seem to be clear. Alternatively, consideration could be given to extending remote pilotage using technological innovations, thus saving time and money while guaranteeing high standards of safety. In the event of collision or any other type of maritime event which might cause material damage or loss of life, insurance companies are authorised to refuse to honour claims for damages if the maritime licences held by those in charge of the vessel – the shipmaster and the chief engineer – are not valid. The EESC recommends that the Commission set up a forum with all stakeholders (shipowners, pilots, sectoral organisations and port authorities) to assess the actual impact of this proposal on safety and employment.

1.8. The EESC backs the project of a European maritime area without borders [2], an integral part of the Short Sea Shipping programmes. It is essential to successfully define a Community legal basis, so that ships carrying 'Community' goods between two EU ports (for example Lisbon and Naples) can be treated in the same way as other modes of transport.

1.9. The EESC would have preferred this possibility to have been included in the new Community Customs Code. Noting that the Commission does not plan to follow this proposal, the EESC calls for it at least to be included among the future implementing rules of the Code, before the end of 2009, so that it may be implemented as swiftly as possible.

1.10. The EESC is highly supportive of the initiative to introduce a 'single window' dealing with all types of practice and other rationalisation measures, such as the planning of inspection visits by the various port and customs authorities: it will be possible to send administrative documents electronically, without prejudice to the activities of customs authorities in fighting crime.

1.11. The EESC calls on the Commission to examine the issues surrounding the possibility of granting the same privileges to ships engaged on operations between two EU ports that call at a non-EU port. According to shipowners' associations, this affects a large number of ships that could benefit from the advantages of the internal maritime space without borders.

1.12. Making English the common language of maritime transport, as in air transport, would greatly facilitate administrative formalities and practices.

2. **The Commission's communication and action plan**

2.1. Free movement of persons and goods must be guaranteed equally for all modes of transport. The advantages offered by the single market must be realised by taking steps to facilitate this objective. Maritime transport does not at present enjoy the same privileges as land transport. The plethora of formalities, administrative burdens and inspections has the effect of discouraging the use of maritime transport for carrying goods within the European Union.

2.2. The Commission document addresses the question of maritime transport procedures: even when carrying 'Community goods' between two EU ports, movement is subject to specific customs and transport rules, veterinary and plant-protection regulations and other formalities.

2.3. It should be borne in mind that the Council urged the use of Short Sea Shipping in 2006, repeating this call in 2007. The communication also refers to the EESC opinion of late 2006, which called for controls at internal frontiers for maritime transport to be done away with.

2.4. In its Mid-Term Review White Paper on Transport Policy, the Commission announced the creation of a European maritime transport space without barriers. This position was confirmed in the Blue Book on an integrated maritime policy. This fits in with the strategy for legislative simplification, and with the policy of better lawmaking.

2.5. Short Sea Shipping (SSS) can contribute to better service quality: ships produce less pollution per tonne transported, generate fewer external costs and reduce road traffic congestion.

2.6. More frequent use of SSS could help the Union to achieve its post-Kyoto CO_2 targets.

2.7. The Vessel Traffic Services/Vessel Traffic Management and Information Systems (VTS/VTMIS) system, using the Automatic Identification System (AIS) is – together with Long-Range Identification and Tracking of Ships (LRIT) – an integral part of the future e-Maritime environment for goods transport and navigation. Use of this technology, as part of an integrated monitoring and surveillance system, will in the future increase the ability to supervise maritime traffic.

[1] OJ C 48, 21.2.2002, p. 122; OJ C 294, 25.11.2005, p. 25; OJ C 168, 20.7.2007, p. 50.

[2] OJ C 27, 3.2.2009.

2.8. The Commission's action plan contains 11 measures: three short-term, four medium-term and four recommendations for Member States.

2.9. Actions to be completed by the end of 2009 (short-term):

— simplification of customs formalities for vessels only sailing between EU ports;

— guidelines for speeding up documentary checks related to animal and plant products carried between EU ports;

— Directive on rationalisation of documents requested under different bodies of legislation.

2.10. Medium-term measures to be presented in 2010:

— simplification of administrative formalities for vessels sailing between EU ports, but having a call in a third country or a free zone;

— enhanced electronic data transmission options;

— administrative single window;

— simplification of rules on carriage of dangerous goods by sea.

2.11. Four long-term measures, in the form of recommendations:

— coordination of administrative inspections with a view to shortening turnaround times;

— facilitation of administrative communication;

— issuing of Pilot Exemption Certificates (PEC);

— rationalisation of flux and space in ports.

3. **Comments**

3.1. The EESC warmly welcomes the overall draft action plan proposed by the Commission, subject to a number of specific criticisms to be set out in the present opinion. The idea of creating a maritime transport space without barriers has already been examined by the EESC, which wishes to reiterate its support for the initiative.

3.2. The plan is however affected by the difficulties placed by the Member States in the path of introducing a comprehensive and clear set of rules for the completion of the internal market. The largest obstacles lie in the unnecessary customs procedures, the lack of coordination of inspections and controls by the relevant Member State authorities, and the lack of electronic communication and interoperable systems. The EESC asks the Commission, as a matter of urgency, to simplify customs formalities and procedures for ships sailing exclusively between EU ports as key factors in the creation of a maritime transport space without barriers.

3.3. The simplification of customs formalities for ships sailing exclusively between EU ports is essential to creating a European maritime transport space without barriers. The proposal to amend the Community Customs Code would have resolved the problems, but given the very recent amendment of the Code, it is proposed that the legal basis of the internal maritime space be inserted into the technical implementing document of the new Code. It should be specified in this document that, for the sole purpose of free movement of Community goods, the internal maritime space will include Community goods on board vessels sailing between two EU ports.

3.4. Most of the proposed actions are in practice limited to urging the Member States to adopt active measures to improve and streamline the administrative framework, whereas far more stringent and binding initiatives are needed.

3.5. There appears to be too great a concentration in the document proposed by the Commission on one of the three pillars of the Lisbon strategy, the economic pillar. The Committee considers that these interests should be better balanced with the other crucial aspects, the social and environmental dimensions.

3.6. The EESC supports the initiatives to improve the legislative and regulatory framework governing the single market, provided that such measures have no impact on the safety of the general public and workers or of the environment, and do not threaten employment. This would seem to be a real risk in the case of certain measures, such as the one concerning the pilot exemption certificates.

3.7. Maritime transport allows very large amounts of goods to be carried at a favourable ratio of CO_2 emissions per tonne/kilometre transported. The sector also offers considerable scope for improvement by developing new engine technologies, using cleaner fuels and reducing navigation speeds. By reducing the waiting times in port caused by unnecessary red tape, vessel movements in port could be increased, generating efficiency and cost gains and helping to achieve targets for lower greenhouse gas emissions and safe and sustainable mobility ([3]). Transport within the space without barriers will be made more attractive, fostering an environmentally-friendly mode of transport.

([3]) OJ C 277, 17.11.2009, p. 20-24 – rapporteur: Ms Bredima.

3.8. The EESC has already voiced its support for the Marco Polo II programme that aims to reduce congestion, improve the environmental performance of the freight transport system and promote intermodal transport by shifting the forecast total annual growth of international road freight transport towards SSS, and transport by rail and inland waterway. The action plan complements a broader strategy, including implementation of the Motorways of the Sea project. When the European satellite positioning system, Galileo, starts operating, this strategy will be further simplified.

3.9. The proposed administrative simplification measures follow the now consolidated and positive Union practice of verifying the need and effectiveness of obsolete Community law or of scrutinising national practices and legislation that contradict Treaty principles.

4. **Specific comments. Short-term measures**

4.1. *The directive*

4.1.1. The proposed directive is certainly not the most important among the measures set out in the action plan. The proposed directive repeals the current Directive 2002/6/EC and enables procedures to be simplified by means of three main innovations: the use of the existing European model in place of that under the IMO (International Maritime Organisation)'s FAL Convention of 9 April 1965, reviewed in July 2005, so as to avoid excessive paperwork, the use of electronic transmission systems, and the nomination of a single authority to whom all required declarations and documents should be sent.

4.1.2. The EESC takes a favourable view of the proposal which, with simple steps, allows the task of shipmasters and owners to be facilitated. It recommends that simplification should not have any negative impact on current health and environmental protection measures, especially with regard to ship-generated waste and cargo residues.

4.2. The EESC believes that the guidelines indicated for speeding up documentary checks related to animal and plant products carried between EU ports require further clarification. Worldwide public opinion is alarmed at the spread of pandemics such as bird flu and swine fever, and is calling for additional safety measures. Traceability of product origins is crucial to isolating possible focal points: it must therefore be clearly shown that the proposed measures will not water down the current rules in any way.

5. **Specific comments. Medium-term measures**

5.1. Part of maritime transport comprises ships sailing between two or more EU ports, making one or more calls at a third country or free zone. The EESC considers that administrative facilities must be simplified for these vessels. The development of aerospace identification and tracing technologies and the progressive improvement of electronic systems to identify Community goods can simultaneously ensure certainty of origin and significantly cut timescales and costs for shipowners.

5.2. Enhanced electronic data transmission, i.e. e-Maritime systems, which fits neatly into the planned system under the new Community Customs Code that will employ an e-customs system in accordance with Decision 70/2008, is one of the solutions that the EESC hopes will improve citizens' lives and cut unnecessary and harmful red tape.

5.3. The administrative single window is similarly anticipated. The only question is why it has not yet been introduced. The EESC strongly supports this proposal and urges the Member States to take the necessary steps soon.

5.4. Simplification of rules on carriage of dangerous goods. The current rules impose a wide range of requirements for dangerous goods carried via a variety of modes of transport rather than one single mode. Increasingly frequently, maritime transport is part of a multimodal chain and is penalised compared to alternative, mono-modal solutions such as road transport, acting as a deterrent to the use of ships. While scrupulously complying with the specific levels of safety required in maritime transport, the EESC believes that a number of measures could be adopted, in particular regarding RoRo (roll-on/roll-off) vessels transporting vehicles which are themselves already in compliance with the rules laid down by the directive on the carriage of dangerous goods and the ADR Convention on international carriage of 30 September 1957.

6. **Specific comments. Measures to be adopted subsequently by recommendation**

6.1. **Coordination of administrative inspections**. Using the same approach as for the administrative single window, the port, customs and police authorities should coordinate and plan joint inspections possibly to be carried out at the same time or in rapid succession. This would substantially cut unloading times, bearing in mind that in some Member States, unloading is only permitted once all inspections have been completed. The EESC strongly supports this proposal.

6.2. **Facilitate administrative communication**. This proposal pinpoints a highly sensitive issue: the use of a common language for maritime transport. The Commission elegantly suggests using a shared neighbouring language or English. Dropping its traditional diplomatic reserve, the Commission emphasises the importance of this option for practical reasons. This proposal is reasonable and proportionate to the purpose. The EESC is of the view that, in the same way as for air transport, maritime transport should adopt a common language, not only for economic reasons but also on the grounds of safety. 'Mayday' is the universal distress message and English should normally be used on international radio channels. In order to facilitate comprehension, electronic translation software could be used to translate the paperwork to be completed at every port of call into the relevant language.

6.3. **Issuing of Pilot Exemption Certificates**. The EESC urges careful reflection on this proposal, seeing it as neither useful nor proportionate. Port pilots perform a highly professional function which is closely tied in with day-to-day practices in their home ports where, as is known, navigation conditions can change rapidly as a result of currents, tides, weather conditions and traffic. There is therefore no significant time-saving and the costs correspond to necessary safety measures. The EESC urges the Commission to review the proposal and consult with pilots' organisations on better ways of improving the service without reducing safety.

6.4. **Rationalisation of flux and space in ports**. The EESC considers this to be a 'competitive' measure between the various maritime and port authorities. Port authorities should give serious consideration to the need to avoid unfair treatment of medium and small vessels. Better service attracts more traffic and it therefore considers it evident that each authority should plan for the investment needed to make its own port more efficient. The advice is however sound!

6.5. Lastly, the EESC feels that the Commission's proposal should be implemented more rapidly, and calls for the services that will be tasked with putting the Short Sea Shipping programme into practice – which are at present inexplicably small given the importance of the question – to be given the necessary additional personnel.

Brussels, 4 November 2009.

The President
of the European Economic and Social Committee
Mario SEPI