

Voicing to the regional, loyal to the international: European Union, International Maritime Organisation and Greek maritime interests.

Paper submitted by Adamantios Dionysios Minas to the Political Studies Association Annual Conference 2010 in Edinburgh, on Panel 126 “Developments in Greek Public Policy”.

Outline

This essay tries to explore the relations between the Greek maritime interests and the EU under the light of the *Erika* and *Prestige* accidents. Trade press was a valuable source of information. Initially, we write about the relation between the shipping industry and the environment. Generally speaking, it is rather a late addition that environmental concerns are considered as a significant parameter. The shipping industry has its own share of impact to the environment ranging from the usual operational pollution to accidental pollution.

Subsequently, we write in brief the particulars of the *Erika* and *Prestige* accidents. Grave weather conditions were to be blamed for the accidents. However, regarding the antecedents to the *Prestige* accident, the shipping industry claimed that political, rather than scientific, parameters have been entangled leading to an ecological disaster.

The next section is about the response from the European Union, in order that the risk of new accidents be further minimised. Commission proposals ranged from tightening controls and its protocols of operation, revised technical specifications, a revised and supplementary liability regime etc.

The ship-owners' reactions to these proposals are discussed in the next section. They opposed adamantly Commission's proposals regarding the phasing-out of single hull and introductions of double hull vessels that would be required to operate in Union waters as well as the notion of “unlimited liability” in case of accidents. They argued that the International Maritime Organisation had already outlined a schedule of substituting single hull tankers with double hull ones. If Commission's proposals were to be approved, a global industry would be regionally compromised.

Furthermore, they had already outlined their investment etc plans according to the globally agreed IMO schedule. Union measures would upset all these. Needless to say that ship-owners' became more sour as the Commission in response to the *Prestige* accident actually revised its own proposals regarding the phasing out of single-hulls. Regarding “unlimited liability”, ship-owners argued this to be discriminatory against the shipping industry. No other industry is operating under these rules. Actually no industry CAN operate under these rules. According to them the IMO had sufficient rules regarding liability. Commission's proposals regarding liability were also seen as dangerous steps towards regionalisation.

The proposals set by the Commission agitated the International Maritime Organisation, the designated global organisation to regulate the maritime industry. The relations between the two are rather complex due to their different political nature. The International Maritime Organisation, which also considered Commissions' proposals of heavy regional flavour, found a loyal partner in the shipping community. However, we could not consider this relation as an one-off marriage of convenience but a lasting relationship.

The Commission proposed on matters regarding maritime transport as this is part of the Common Transport Policy. However, marine modes of transport had a special

status in the Common Transport policy before being wholeheartedly integrated. On the other hand maritime interests had an early presence in the Community and they were in a privileged position to other interest groups as they already operated in a global environment. These issues are addressed in the subsequent sections.

As shipping interests showed their loyalty to the International Maritime Organisation and voiced against the Commissions' proposals, these terms are discussed in the penultimate section. In the Conclusions everything is rounded up.

Shipping and the Environment

Till the early post Second World War years, marine pollution was not something that people were really aware of. Unconditional development was of paramount importance as more people then lived in economic insecurities, even in the developed countries. One has also to take into consideration that people and the scientific community believed that energy sources were either renewable or virtually impossible to be depleted. Furthermore, no one was aware of development's dark side. They were, either not manifest or the scientists had not developed yet the necessary scientific and explanatory models. Last but not least there was an overexcitement regarding the concept of "progress" People became gradually more and more aware as pollutants in the marine environment gradually amounted. Urbanisation, allocation of industrial activities in specific geographic areas, use of oil as the main energy supplant and, subsequently, increasing carriage of oil as well as of other chemicals are major contributors to marine pollution¹. However, till 1972 and the Declaration of the United Nations Conference on the Human Environment the issue of marine pollution was not mentioned in legal documents. The only references were to oil pollution and nuclear-powered ships related pollution. The latter was considered mainly a dangerous activity rather than an environmental issue². Like any human endeavour, shipping has impacts on the environment. These can be considered as negative externalities. A ship in operation has impacts in the ecosystem. Its funnels emit gases; the hull interacts with the water; ballasting or de-ballasting usually has impacts as local marine floral and fauna slip into the ballast tanks to be released elsewhere; sludge and waste play their negative role too. This is operational pollution. It has to be said, however, that maritime transport counts only up to 12% regarding marine pollution, when land activities have a tremendous impact of 44%³.

However, there is not only the operational pollution. Due to its operational environment, vessels are in high risk of being entangled in an accident, which may have negative impacts on the environment. The stakes are high on the seas as vessels are defenceless to the forces of nature and wrong human handling may have dire consequences as Χαρλαύτη and Θεοτοκάς state⁴. Though maritime transport has actually a low negative score of accidents in total, the stakes are higher to carry goods by sea than by land. It must be noted that the main contributors to marine accidents and therefore pollution are human related, while vessel age is of secondary

¹ Γ. Π Βλάχος and Α.Β Αλεξόπουλος, *Τεχνικο-Οικονομικές Απόψεις Της Θαλασσίας Διακίνησης Των Αγαθών Και Της Προστασίας Του Θαλασσίου Περιβάλλοντος* (Αθήνα-Πειραιάς: Σταμούλης, 1995), 18.

² Ibid.

³ Ibid., 41.

⁴ Γιάννης Θεοτοκάς and Τζελίνα Χαρλαύτη, *Ευπόμπη. Ελληνικές Ναυτιλιακές Επιχειρήσεις, 1945-2000: Οργάνωση, Διοίκηση Και Στρατηγικές*, ed. Χαριτάτος Μάνος (Αθήνα: Ελληνικό Λογοτεχνικό και Ιστορικό Αρχείο, 2004), 52.

importance⁵. Furthermore as even bigger vessels are built, the potential environmental consequences, if they are entangled into an accident grow consequently. It has to be taken into consideration that an accident involving a very large or an ultra large crude carrier will have direr consequences than one involving a bulk carrier⁶

The Erika and Prestige accidents

The press reported on December the 13th 1999 that the Malta registered oil-carrier *Erika* broke in two 70 miles south of Brest, while on route from Dunkirk to Italy. Stormy weather was to be blamed for the accident as well for the subsequent difficulties of minimising the consequences⁷. Three years later and after the EU has already taken relevant action, as we shall see subsequently, *Prestige* another oil-carrier sank 30 miles off the Galician coasts after having been seriously listed, due to heavy winds. She has asked a port of refuge, however the Spanish authorities denied her any assistance, demanding that she be moved farther away from the coast towards the high seas. This demand has been seriously criticised and considered a factor that led to her sinking⁸.

The European Union responses

Although there was a policy paper regarding maritime safety, due to be published in early 2000, the Commission decided that it be postponed for the second semester during the French presidency. There would be an emphasis on oil-carriers and pollution⁹. The Commission has been encouraged by the European Council to act accordingly. Section IV (Europe and the Citizen), C (Maritime safety) of the Santa Maria da Feira European Council's Conclusions states the following: "49. The European Council welcomes the Commission's intention to present a report on its proposed overall strategy on maritime safety to the Biarritz European Council in order to reach a decision by the end of the year"¹⁰ On the conclusions of the Nice European Council the "mandate" towards Council and Parliament to conclude regarding the Commission's proposals related to the specific issue is more specific¹¹

Responding to the Erika incident the Commission has proposed on the following as a first step:

1. Port State Control¹²

⁵ Βλάχος and Αλεξόπουλος, *Τεχνικο-Οικονομικές Απόψεις Της Θαλασσίας Διακίνησης Των Αγαθών Και Της Προστασίας Του Θαλασσιού Περιβάλλοντος*, 33.

⁶ *Ibid.*, 27-28.

⁷ "Casualty: France Faces Pollution Threat from Broken Tanker," *Lloyd's List*, 13 December 1999, "Κόπηκε Στα Δύο," *Η Ναυτεμπορική*, 13 Δεκεμβρίου 1999.

⁸ "Spain Fears Erika-Style Fuel Oil Tanker Spill," *Lloyd's List*, 13 November 2002, Roger Hailey, "Liners&Freght: Shipowners Demand Global Action on Places of Refuge," *Lloyd's List*, 22 November 2002, Brian Reyes, "Update- Fore Section Sinks," *Lloyd's List*, 19 November 2002, "Πολιτικά Κενά Στην Διάσωση Πλοίων," *Η Ναυτεμπορική*, 26 Νοεμβρίου 2002, "Κίνδυνος Οικολογικής Καταστροφής," *Η Ναυτεμπορική*, 15 Νοεμβρίου 2002.

⁹ "Pollution: Ec Gets Tough after Erika Spill," *Lloyd's List*, 7 January 2000.

¹⁰ "European Council. Presidency Conclusions," (Santa Maria da Feira 2000).Section IV, C. 49

¹¹ " Presidency Conclusions," (Nice: 2000), Section VI, C 41,42,43.

¹² "Communication from the Commission to the European Parliament and the Council on the Safety of the Seaborne Oil Trade

Proposal for a

Directive of the European Parliament and of the Council

Amending Council Directive 95/21/Ec Concerning the Enforcement, in Respect of Shipping Using Community Ports and Sailing in the Waters under the Jurisdiction of the Member States, of International Standards for Ship Safety, Pollution Prevention and Shipboard Living and Working Conditions (Port State Control)

2. Classification Societies¹³
3. Single and double hull oil tankers¹⁴

These were to be supplemented by:

1. Measures on increased transparency regarding ships' properties and safety¹⁵
2. Measures regarding surveillance of navigation¹⁶
3. Action in relevance to enlargement, as most candidate states had a low safety score, while Cyprus and Malta are on the top league of the world's fleet¹⁷
4. The creation of a structure for maritime safety¹⁸
5. A liability regime for maritime players supplementing the existing international one¹⁹

The Ship-owners react

Proposals regarding the removal of single hull tankers and on the liability regime were not received warmly. On the contrary they elicited reactions. Proposals on the phasing out of single hull ships were called "one-sided"²⁰. They were drafted to appease the spontaneous sentiment of the public opinion, instead of being drafted in such a way to ensure both environmental protection and entrepreneurship²¹.

Epaminondas Embiricos President of the Greek Shipping Co-Operation Committee had stated in interviews that Commission's proposals regarding phase-out of single-hulls after the *Erika* accident, were not grounded on technical reports but it was something in order the European public opinion be appeased²². He has repeated the same thesis at the Greek Shipping Co-Operation Committee annual general meeting²³. Speaking during the Cadwallader Memorial lecture, he stated that accelerated phase-out of single hulls would lead to oil shortages in Europe as well as a shift of trade towards the Far East²⁴. Regarding the issues of liability, Greek ship-owners will be against any regime that is of regional nature and is of unlimited scope. According to

Proposal for a
Directive of the European Parliament and of the Council
Amending Council Directive 94/57/Ec on Common Rules and Standards for Ship
Inspection and Survey Organisations
and for the Relevant Activities of Maritime Administrations

Proposal for a
Regulation of the European Parliament and of the Council
on the Accelerated Phasing-in of Double Hull or Equivalent Design Requirements
for Single Hull Oil Tankers

(Presented by the Commission)," ed. Commission of the European Communities (2000), 22-23.

¹³ Ibid., 23-24.

¹⁴ Ibid., 25-28.

¹⁵ Ibid., 28-29.

¹⁶ Ibid., 29-31.

¹⁷ Ibid., 31-32.

¹⁸ Ibid., 32-33.

¹⁹ Ibid., 33-36.

²⁰ "Regulation: Greeks Attack Brussels," *Lloyd's List*, 29 March 2000, "Ελληνες Εφοπλιστές: Πολιτική Η Απόφαση Για Τα Μονού Τοιχώματος," *Η Ναυτεμπορική*, 7 Αυγούστου 2003.

²¹ "Θέμα Αποζημιώσεων Θέτει Το Committee Με Αφορμή Το "Erika"," *Η Ναυτεμπορική*, 16 Ιουνίου 2000, "Maritime Europe Expects," *Lloyd's List*, 10 June 2004.

²² Leigh Smith, "Europe: A New Voice for London Greeks," *Lloyd's List*, 6 June 2000.

²³ "Θέμα Αποζημιώσεων Θέτει Το Committee Με Αφορμή Το "Erika"."

²⁴ Julian Bray, "Regulation: Showdown on Brussels Tanker Phase-out Plans," *Lloyd's List* 16 September 2000.

them the CLC and Fund Conventions were sufficient enough permitting swift compensations. Oil spill victims can ask for compensations without having to bear the burden of proof that the spill was on purpose or due to negligence. They also pointed out that insurance companies would decline to make policy contracts with companies being under “unlimited liability”. Therefore, either the economic viability of maritime enterprises is under continuous threat, and/or no one would be willing to take the risk of starting up a new maritime enterprise. They also added that no economic organisation is under an unlimited liability regime, therefore adopting such would be a negative discrimination for the maritime industry²⁵. Generally speaking, the ship-owners pointed out that the maritime industry is a globalised one; therefore regional measures would do no good. On the contrary, these measures would lead in Europe losing its position as a global maritime player; would lead to dysfunctions in the industry and would help neither safety nor security. The appropriate forum for solving issues of the industry is the International Maritime Organisation²⁶. Furthermore, Greek ship-owners said that these measures would have a negative impact on transport capacity, therefore leading to higher transport fares and a possible shortage to oil-supply in Europe²⁷. Unlimited liability was to another reason unfair. Maritime businesses were held liable for circumstances they were not responsible of, such as port structures etc²⁸. After all, had it not been the demand of the authorities that the *Prestige* do not approach any port, she would not have been subject to the accident. Maritime businesses etc considered the denial of port of refuge and the incarceration of *Prestige*'s master Apostolos Mangouras as policies that were against maritime traditions and ethos²⁹.

Finally, it has to be said that a plan for phasing out single-hulls was already agreed within the IMO. Therefore, maritime companies had already set their business and shipbuilding plans. Commission's proposals not only would disrupt the industry by regionalising it, but by upsetting business plans as well. It has also to be taken into consideration that the Greek maritime industry excels (or used to) in the second hands³⁰

²⁵ "Ετήσια Έκθεση/Annual Report," (Πειραιάς/Piraeus: Ένωση Έλλήνων Εφοπλιστών/Union of Greek Shipowners, 1999-2000), 16.

²⁶ "Annual Report," (Brussels: European Community Shipowners' Association (ECSA), 2000-2001), 4, "Ετήσια Έκθεση/Annual Report," (Πειραιάς/Piraeus: Ένωση Έλλήνων Εφοπλιστών/Union of Greek Shipowners, 2001-2002), 28, Μηνάς Τσαμόπουλος, "Ιμο: Στόχος Το 2015 Ως Έτος Απόσυρσης Των Marpol Δ/Ξ," *Η Ναυτεμπορική*, 15 Ιουλίου 2003, "Not a Question of If, but of How Soon," *Δελτίο της Ναυτιλίας*, Απρίλιος 2001, Michael Grey, "Regulation: Bimco Ire at Regional Regulation," *Lloyd's List*, 2 June 2000, Αντώνης Τσιμπλάκης, "Η Θέση Της Παγκόσμιας Ναυτιλιακής Βιομηχανίας," *Η Ναυτεμπορική*, 16 Δεκεμβρίου 2002, Μηνάς Τσαμόπουλος, "Προβληματισμός Για Την Εφαρμογή Των Μέτρων "Prestige"," *Η Ναυτεμπορική*, 19 Μαΐου 2003, "Κλίμα Αισιοδοξίας Στην Κοινή Συνεδρίαση E.E.E. Και Committee," *Η Ναυτεμπορική*, 4 Μαρτίου 2002, Bray, "Regulation: Showdown on Brussels Tanker Phase-out Plans.", "Regulation: Greeks Attack Brussels."

²⁷ "Κίνδυνος Ανατροπής Της Ομαλής Μεταφοράς Πετρελαιοειδών Στην Ευρώπη," *Η Ναυτεμπορική*, 9 Μαρτίου 2000, Bray, "Regulation: Showdown on Brussels Tanker Phase-out Plans.", "Tankers: Early Phasing out of Single-Hull Tankers Is Totally Unworkable (Ege Embiricos)," *Lloyd's List*, 19 December 2002, Τσαμόπουλος, "Ιμο: Στόχος Το 2015 Ως Έτος Απόσυρσης Των Marpol Δ/Ξ."

²⁸ "Ετήσια Έκθεση/Annual Report," 16.

²⁹ Μηνάς Τσαμόπουλος, "Δυναμική Παρέμβαση Των Ελλήνων Εφοπλιστών Στις Διεθνείς Εξελίξεις," *Η Ναυτεμπορική*, 6 Δεκεμβρίου 2002, Nigel Lowry, "Greek Owners Rage at Eu's Prestige Reaction," *Lloyd's List*, 18 December 2002, "Ετήσια Έκθεση/Annual Report," 26, Μηνάς Τσαμόπουλος, "Committee: «Δήμευση» Για Τα Μονού Τοιχώματος Δεξαμενόπλοια," *Η Ναυτεμπορική*, 20 Δεκεμβρίου 2002.

³⁰ "Ετήσια Έκθεση/Annual Report," 4, 16, Λάμπρος Καραγεώργος, "Ν. Ευθυμίου: Μην Πυροβολείτε Τη... Ναυτιλία," *Η Ναυτεμπορική* 13 Απριλίου 2005.

IMO and the European Union

Since the mid of the 19th century several Treaties concerning maritime safety were concluded. Some states pressed for the establishment of a permanent body as it would promote maritime safety more effectively; to this, there was no success, as it was not considered practical. Though not stated, it was the shipping industry that had pressed towards that direction as it was afraid as it was afraid that there would be an attempt to control its activity and curtail its commercial freedom³¹. This permanent body was established after the Second World War. In 1948 the Convention on the International Maritime Consultative Organisation was adopted and was entered into force in 1958. The IMCO was renamed as IMO in 1982³². Maritime industry is a global one, therefore IMO is considered the appropriate forum to regulate this particular industry. IMO standards are to be followed in the European Community as well, by means of the appropriate legal instruments. There may be some Union-customised rules, but they still rely on IMO's standards³³.

According to the Union, IMO suffers from the following fault. Though it sets the rules, it lacks any powers of inspecting and enforcing its rules. The Commission supported that IMO should be given powers to audit the flag states, following relevant ICAO rules, as Japan had proposed³⁴.

Needless to say that the Union as well as member states are highly influential in maritime policy. The EU coastline is rather extended; the EU is the home to some of the world's major ports; Member states of the European Union such as Greece, Cyprus, or Malta are considered to have substantial and powerful maritime interests; the Union is considered a major trade partner, a producer and a consumer of end products. Therefore, it is difficult to circumvent EU maritime by-laws, as it is difficult to curb the American ones.

The Commission does think that IMO is the appropriate forum for regulating the maritime industry. However, it would prefer that she be delegated member-states powers to the Organisation, in other words that the EU has a single representation to the Organisation. This could lead to an integrated Common Maritime Policy or to an upgraded maritime component of the Common Transport Policy. However, neither member-states, especially those with substantial maritime interests, nor related interest groups are ardent about this prospect. They think that the Commission is trying to do this in stealth by imposing regional rules and disturbing the industry. IMO is against any regionalisation³⁵. On the other hand the Commission says that it has no intention to undermine the IMO. The Commission just sets complimentary rules According to Commission's officials IMO's response tends to be slow³⁶. The

³¹ International Maritime Organisation, "Convention on the International Maritime Organisation," <http://www.imo.org/>.

³² ———, "Introduction to Imo," <http://www.imo.org/>.

³³ Robert Coleman, "The Role of the Eu in Fostering a Quality European Shipping Industry," in *Bimco Review 2000* (Preston: Book Production Consultants, 2000), 36.

³⁴ Commission of the European Communities, "White Paper European Transport Policy for 2010: Time to Decide," http://ec.europa.eu/transport/strategies/doc/2001_white_paper/lb_com_2001_0370_en.pdf.

³⁵ "Annual Report," (Brussels: European Community Shipowners' Association (ECSA), 2004-2005), 17.

³⁶ Julian Bray, "Latest News from the Bimco General Meeting in Beijing," *Lloyd's List*, 15 May 2001, ———, "Regulation: Europe Hits Back at Claims It Is Hampering Ship Safety," *Lloyd's List*, 16 May 2001.

ECSC is against a single representation of the Union within the IMO, however it does support that there should be some form of coordination³⁷.

The European Union may not be a member and have a single representation to the IMO as the Commission would have wished, however, it is too big and too important to be ignored. Therefore regarding Commission's reactions to the accidents, there may have been negotiations regarding dates of "phasing out" and "thresholds" and "ceilings" regarding amounts of compensation but in order to keep the international maritime business to run smoothly and globally, the International Maritime Organisation had actually to amend its rules and schedules³⁸

Maritime Policy as part of the Common Transport Policy

The original Treaty of Rome (1957) had provisions regarding the creation of a Common Transport Policy (Title IV). However, the scope of these provisions was of an exclusive nature as article 84§1 stipulated, "*the provisions of this title shall apply to transport by rail, road and inland waterway*". On the other hand, the possibility of extending its scope into the future was not excluded as article 84§2 stated that "*The Council, acting by means of a unanimous vote, may decide whether, to what extent, and by what procedure appropriate provisions might be adopted for sea and air transport*"³⁹. It may seem strange that maritime transport was not ab initio included, but we have to take into consideration that neither of the original Six was an important maritime power, nor was it absolutely necessary for them to have a maritime policy incorporated in the Common Transport Policy. The original area of the EEC was not fragmented, therefore rail, road and inland waterways of transport were sufficient for a Common Transport Policy that would support the free movement of Persons and Goods among the Six.

Finally, maritime policy was incorporated as part of the Common Transport Policy. This development can be attributed to the following three reasons according to Θεοδωρόπουλος et al⁴⁰

1. Enlargement: In 1973 Denmark, the Eire and the UK joined the Communities and there was the prospect of Norway joining too; however it declined. Greece joined in 1981. Norway and Greece are maritime nations. Furthermore the island nature of the Eire and the UK as well as Greece's geographical isolation would make article 84 inapplicable.
2. A Commission willing to flex its muscle. The Commission may be relatively weak, but Jacques Delors's Commission would not just sit inactive.
3. An active European Court of Justice. Giving its ratio decidendi in the case 167/73 (European Commission vs the French Republic, *Application for a declaration that by not amending the provision of article 3 (2) of the code du travail maritime dated 13 December 1936 in relation to the nationals of other member states, the French Republic has not complied with its obligations under the provisions of the EEC Treaty as regards freedom of movement for workers and, in particular, articles 1, 4 and 7 of regulation No. 1612/68 EEC*

³⁷ "Annual Report," 17.

³⁸ "Ο Ιμο Πενταπλασίασε Το Ποσό Αποζημίωσης Για Θαλάσσια Ρύπανση," *Η Ναυτεμπορική*, 17 Μαΐου 2003, Μηνάς Τσαμόπουλος, "Η Ε.Ε. "Κατέλωσε" Τον Ιμο Για Τα Μονού Τοιχώματος Δ/Ξ," *Η Ναυτεμπορική*, 5 Δεκεμβρίου 2003.

³⁹ Γ. Π Βλάχος, *Διεθνής Ναυτιλιακή Πολιτική* (Αθήνα: Σταμούλης, 2000), 391, *Treaty Establishing the European Economic Community*, art 84, §§ 1, 2, Σωτήρης Θεοδωρόπουλος, Μαρία Β. Λεκάκου, and Αθανάσιος Α. Πάλλης, *Ευρωπαϊκές Πολιτικές Για Τη Ναυτιλία* (Αθήνα: Τυπωθήτω-Γιώργος Δάρδανος, 2006), 28.

⁴⁰ Θεοδωρόπουλος, Λεκάκου, and Πάλλης, *Ευρωπαϊκές Πολιτικές Για Τη Ναυτιλία*, 29-30.

of the Council of 15 October 1968 on freedom of movement for workers within the Community (OJ L 257, 19. 10. 1968, p.2) the court states that “29. Article 84 (1) provides that the provisions of the title relating to transport shall by to transport by rail, road and inland waterway. 30. Article 84 (2) provides that as regards sea transport, the Council may decide whether, to what extent and by what procedures appropriate provisions may be laid down. 31. Far from excluding the application of the Treaty to these matters, it provides only that the special provisions of the title relating to transport shall not automatically apply to them. 32. Whilst under article 84 (2), therefore, sea and air transport, so long as the Council has not decided otherwise, is excluded from the rules of title IV of part two of the Treaty relating to the Common Transport Policy, it remains on the same basis as the other modes of transport, subject to the general rules of the Treaty. 33. It thus follows that the application of articles 48 to 51 to the sphere of sea transport is not optional but obligatory for member states.”⁴¹

The maritime component of the Common Transport Policy is a mixed success. The most significant failure has been the EUROS the attempt to create a European Registry of Ships⁴²

Representing Maritime Interests in the EU

As stated, maritime policy was not integrated as part of the Common Transport Policy. However, in order to influence any policies relevant to their industry, ship-owners were already active from the Community’s early years, just a five years after the Community had been founded⁴³. For those who accept that interest groups are of constructive nature to policies, maritime interests have their share of praise. Maritime interests not only have an expert knowledge to offer to an understaffed and inexperienced to the matter European Union. Furthermore, as maritime and transport policy are considered part of low politics, interest groups can interact constructively with the authorities without eliciting too much negative criticism⁴⁴. We think that there is a long string of maritime or maritime related interests: maritime industry workers, charterers, the port industry and of course ship-owning interests. The latter can be considered to have an important leverage on influencing policy. Though it would be an exaggeration to say that ship-owners can act, however they like, the states being impotent, the ships are actually chattel. This means, it is easier to be moved away, de and re-registered etc. As Greek prime-minister Georgios Papandreou had famously stated: “Ships do have propellers, therefore they can escape”⁴⁵. Ship-owning interests were able to act within the Community smoothly from the very early days. There were enough resources to hire lobbying specialists, to establish an information relay etc. Furthermore, it should be noted that maritime interests are international oriented, therefore it was not, neither is difficult for them to act in an international environment such that of the Union. Ship-owning interests had to bear no cost in order to learn to operate in the Community’s environment, as other interest groups were required to do. Last but not least European decision centres are not that

⁴¹ "Judgement of the Court of 4 April 1974," ed. Court of Justice of the European Communities (1974).

⁴² _____, *Ευρωπαϊκές Πολιτικές Για Τη Ναυτιλία*, 38-39.

⁴³ *Ibid.*, 72.

⁴⁴ Nektarios Alexopoulos, "The European Commission as Policy Innovator: Bureaucratic Politics in Perspective" (PhD Thesis, European University Institute, 2000).

⁴⁵ Γιάννης Μαρίνος, "Δυστυχώς Τα Πλοία Έχουν Προπέλα," *Το Βήμα*, 21/12 1997.

far away from London, one of the major maritime centres. It is easy to travel from/to London, Brussels, Strasbourg, as there is geographical proximity, and time differences virtually non-existent set no obstacles for conducting business. It is even easy to set or transfer part of the business there. London is a city of a strong international character as well as the home to the International Maritime Organisation. Therefore, shipping interests did not have to invest that much in order to learn how to interact in the Community's environment⁴⁶. Ship-owners' interests are represented in the European Union by the European Community Ship-owner's Association. It is an Association consisting of the relevant Associations from the member-states plus those of Norway and Iceland⁴⁷. However, there are Associations that have double representations; a direct one as well as membership to the ECSA⁴⁸. The maritime industry is an industry, where Greek entrepreneurs excel. For various reasons, a lot of ship-owners have decided in recent years, to do more and more business from their "Piraeus" offices⁴⁹. Developments in communications played a major role. However, we have to take into consideration that London still remains a major centre of finance.

On (exit), Voice and Loyalty

Alfred Hirschman's theory of exit, voice and loyalty highlights the difference between an economic and a political system. While an "exit" option is usually available in an economic setting, this is not possible, when one speaks of the state. Substitutes given, a consumer may happily "stroll around" brands. This behaviour is considered rational, it contributes to the smooth function of markets and can be seen as a particular of the "invisible hand"⁵⁰. Regarding states, a citizen has usually to choose sides. "Exiting" from a political system can be seen even as treason⁵¹. As Haas states, "the nation [is] the major claimant to loyalty"⁵². After all, a state can enforce its citizens a minimum level of compliance and support towards it⁵³. Hirschman used this theory to write about the fate of the German Democratic Republic. The existence of the Federal Republic was an "exit" option for east German citizens, which the East German government tried to suppress it by such means as the Berlin Wall⁵⁴. Besides obligatory loyalty, individuals, groups etc remain loyal to anyone that can further their interests. Loyalty is not something one-sided. Individuals etc will calculate costs and benefits between staying loyal or defecting somewhere else.

⁴⁶ Θεοδωρόπουλος, Λεκάκου, and Πάλλης, *Ευρωπαϊκές Πολιτικές Για Τη Ναυτιλία*, 77-78.

⁴⁷ *Ibid.*, 76.

⁴⁸ *Ibid.*, 83.

⁴⁹ Piraeus is Athens port-city and the major port of Greece. Not all companies do business from there. In recent years a lot of them as well as repatriated ones have moved their offices to more posh regions, such as Glykada or Kavouri. This is the reason of putting Piraeus in inverted commas. "Piraeus" means not the area. It means "major maritime centre" in the sense that "the City" is synonymous to "major financial centre", rather than the Square Mile. Shipping companies had never abandoned "Piraeus" and the notion of "repatriating" their offices, means more of doing more or even all of their businesses from "Piraeus", rather than from London or elsewhere. Someone in the industry had told me, that discussions about making "Piraeus" a maritime centre are wrong, since "Piraeus" is already a major maritime centre. There can be discussions of making it even better.

⁵⁰ O. Hirschman A., *Exit, Voice, and Loyalty. Responses to Decline in Firms, Organizations, and States* (Cambridge Mass.: Harvard University Press, 1970), 15-16.

⁵¹ *Ibid.*, 17.

⁵² Ernst Haas, *The Uniting of Europe* (London: Stevens & Sons Limited, 1958), 115.

⁵³ Peter Leslie, "General Theory in Political Science: A Critique of Easton's Systems Analysis," *British Journal of Political Science* 2, no. 2 (1972): 162.

⁵⁴ O. Hirschman A., "Exit, Voice, and the Fate of the German Democratic Republic: An Essay in Conceptual History," *World Politics* 45, no. 2 (1993).

The concept of loyalty is of paramount importance to scholars of European integration. According to Ernst Haas habitually obeying to injunctions from the authority and turning to the latter for satisfaction of expectations is a measure of loyalty⁵⁵. He adds also his definition of political community. "*Political community... is a condition in which specific groups and individuals show more loyalty to their central political institutions than to any other political authority, in a specific period of time and in a definable geographical space*"⁵⁶. His terms on shifts of loyalty and multiple loyalties may imply that there can be a partial open-ended process of exit⁵⁷. According to Simon Hix the European Union can be seen as a political system *per se*⁵⁸. Therefore, there can be transfer of loyalties, co-existence of loyalties, even conflict of loyalties between the Union and the member states. David Mitrany, on the other side, does not speak about loyalty, but as the designated functional organisations can –up to a certain point- satisfy the needs and demands of the interested parties, they can elicit a form of special support and loyalty from the latter.⁵⁹ It may be seen as a stealth transfer of loyalty. The International Maritime Organisation can be seen as a functional organisation in the Mitranean sense eliciting support and loyalty from the relevant interest groups.

Voice is an option when exit is impossible or considered a worse option than staying loyal to a particular system⁶⁰. However, if the latter wants to remain operational rather than to disintegrate, "gate-keepers" are necessary. These set the rules about the accepted modes of registering voice. There are two broad sets of "gate-keepers"; those based on organization and those based on ideology. Statutes, rules, laws etc describe the permissible modes of registering voice, as well as manifesting interests. Culture, ideology etc circumscribe what is not and what is not permissible to be demanded⁶¹. Expressing voice means actually that one remains loyal to the system. Therefore, they do not mutually cancel each other. Needless to say that if the threat of an "exit" remains as a credible option, loyalty is valued and any voice is being taken seriously into consideration⁶².

"Interest articulation" and "voice" do contact and their points of contact are rather blurry. When does "interest articulation" become voice? After all, blind loyalty may lead to disintegration. On the other hand, voice as well as loyalty can be seen as valuable means of information to a system to take appropriate action. There is not such a thing such an omniscient system, nor is its personnel omniscient. "Interest articulation" and "voice" are actually necessary for a system to keep running and elicit support.

Conclusions

Let's connect now the pieces of the puzzle: In the late 90's early 2000s two major marine accidents happened with dire consequences to the environment, to the

⁵⁵ Haas, *The Uniting of Europe*, 5.

⁵⁶ Ibid.

⁵⁷ Ibid., 14.

⁵⁸ Simon Hix, *The Political System of the European Union*, European Union Series (New York: St. Martin's Press, 1999).

⁵⁹ Gerald Schneider and Lars-Erik Cederman, "The Change of Tide in Political Cooperation: A Limited Information Model of European Integration," *International Organization* 48, no. 4 (1994): 641.

⁶⁰ Hirschman A., *Exit, Voice, and Loyalty. Responses to Decline in Firms, Organizations, and States*, 77.

⁶¹ D. McQuail, *Mcquail's Mass Communication Theory* (London: Sage, 2000), 276-77.

⁶² Hirschman A., *Exit, Voice, and Loyalty. Responses to Decline in Firms, Organizations, and States*, 82-83.

standards of living and to the economies of the people of the areas affected. Trying to minimise the possibilities of further accidents, the Commission proposed certain measures. The Greek ship-owning community opposed fiercely aspects of these measures, namely issues of liability and phasing out of single hull ships. The Greek ship-owning community used all the possible channels direct and indirect to voice its opposition to the measures considered to be harmful to the industry. On the other hand, it expressed its loyalty to the International Maritime Organisation; it believed the latter to be the most appropriate forum for tackling maritime issues in the most effective manner. Ship-owning interests are not opposing the European Union in general. Even measures of the above mentioned packages they supported.

Actually speaking, maritime interests are per se neither members of the EU, nor of the IMO. Therefore, there is not any case of actually making any “exit”. Moving business outside Europe could be seen as a form of “exit”, but as Europe remains a trade power these could be seen as a destructive option, therefore, we think it was out of the question. However, with their vociferous campaigns, they tried to persuade the Commission and the member states, that the most appropriate forum for maritime issues is the International Maritime Organisation. Actually, they had not to convince all the member states as some of them preferred the IMO to have the upper hand in tackling these issues.

It is evident that when one has to choose or to express voice, loyalty or exercise exit, it may not be necessary to choose between entities of the same nature, as the EU and the IMO are legal entities of different nature. EU can be seen as a quasi-confederal system, while the IMO is an international organisation. Ship-owning interests expressed their voice to the European Union, as they thought that Commission proposals would regionalise and subsequently jeopardise the maritime business. Their voice was not against the European Union and its policies in total. Their voice was against certain particulars of certain policy proposals. Classifying shipping interests as anti-EU could be seen as a grave mistake. On the other hand, they did express loyalty to the IMO as the latter being of international and function specific nature promulgates rules that have to be valid and be followed by anyone and anywhere that is related to the specific business.

The concept of “blurriness” between “interest articulation” and “voice” is also here manifest. The Commission is not an expert in maritime business. Furthermore, it can be seen as understaffed. Even by “voice” ship-owning interests provided valuable information to the Commission as well as to the other institutions. Bouwen has described a model, where interest organizations are granted access to the European institutions in order to present their demands but also to provide their expertise to the understaffed and non-expert institutions. Therefore, technical information is of paramount importance to the Commission⁶³ Each institution needs a different set and order of information. However, from the interests point of view, access to the Commission is of paramount importance and necessary to be done in the first place, because it is the Commission that proposes. It is better to influence the original proposal, rather than trying to lobby about amending it in the European Parliament or the Council.

Finally, it is needless to say that the Commission proposals brought tension between it and the International Maritime Organisation. Commission proposals could be seen as a means of “flexing its muscle” and being assertive vis-à-vis the member-states as

⁶³ Pieter Bouwen, "Corporate Lobbying in the European Union: The Logic of Access," *Journal of European Public Policy* 9, no. 3 (2002): 380-82.

well as the global community. As there are perennial discussions regarding the “democratic deficit”, or “Brussels being too far away from the average European citizen”, those proposals could be seen as means of falsifying any notion that “Europe is absent”. After all, the Commission took a calculated risk as environmental matters become more and more important to the citizens. Commission could have expect to have the popular support, at least by the citizens of the inflicted areas. The Commission. On the other hand, ship-owners, entangled the citizens in the discussion, when they put the issues of cost forward into the discussion. Due to its locus operandi the maritime industry is rather invisible from the general public. Invisibleness helps issues to be addressed in more rational and less sentimental or political calculated grounds.⁶⁴ However, the issues prompted by these two accidents could not stay away from the public gaze and be solved unobstructed. Environmental matters are becoming more and more important for the global civil society. However, there is the question, whether by “forcing” public opinion to choose sides, did there was any impact on resolving these issues in the best possible manner.

However, there is something more to addressing the “democratic deficit”, asserting powers etc. It was the Prodi Commission that had to deal with the *Erika* accident. This very Commission had succeeded the Santer Commission, which has been forced to resign. Addressing the spills, especially *Erika* oil spill was seen as a means of restoring Commissions credibility towards the citizens of Europe⁶⁵.

Shipping interests claimed that national politics had their share. Had it not been the issue of political cost, authorities should have permitted *Prestige* to enter a port of refuge instead of banishing her to the high seas, leading to her sinking⁶⁶. After all there were rules regarding ports of refuge within the “*Erika* package”⁶⁷ It has to be noted that even Spanish institutions considered the denial of giving her a port of refuge as a grave mistake⁶⁸.

Despite any bitter words and “inflicting of wounds” did this conflict among the Union the IMO and the ship-owners lead to any losses? Was it a “zero sum” game? We do not think so. The Commission may have forced the IMO to reschedule, but IMO did remain the designated Organisation of regulating the international maritime business, keeping its role intact. Maritime interests could further keep on with their business without thinking of major deviations among differ nations that could jeopardise the smooth global running of the industry.

After all politics is the art of compromise.

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⁶⁴ Alexopoulos, "The European Commission as Policy Innovator."

⁶⁵ "Killer Instinct Takes over the European Commission: Why Is the Tanker Industry Squarely Set in the Commission's Gunsights?," *Lloyd's List*, 17 April 2000.

⁶⁶ Lowry, "Greek Owners Rage at Eu's Prestige Reaction.", "Απόψεις 2004," *Ναυτικά Χρονικά*, Ιανουάριος 2005, Brian Reyes, "Prestige: Universe Appeal for Cut in Master's Bail," *Lloyd's List*, 27 November 2002, Hailey, "Liners&Freght: Shipowners Demand Global Action on Places of Refuge."

⁶⁷ Justin Stares, "Tankers: Grimaldi Slams Eu on Rush for Safety Rules," *Lloyd's List*, 27 January 2003.

⁶⁸ "Prestige: Επικρίσεις Για Τον Χειρισμό Της Οικολογικής Καταστροφής," *Η Ναυτεμπορική*, 24 Ιανουαρίου 2003.

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