

# **REVIEW OF THE COMMUNITY GUIDELINES ON STATE AID TO MARITIME TRANSPORT**

## **A. INTRODUCTION**

In 2004, the Commission adopted its latest Community Guidelines on State aid to maritime transport<sup>1</sup> (hereafter “*Maritime Guidelines*”). These guidelines notably specify that they will be reviewed within seven years of their date of application.

The purpose of the present consultation is to invite Member States, other institutions and stakeholders to provide information on industry developments, feedback on the application of the Maritime Guidelines and their effects, as well as any comments and proposals regarding the State aid to maritime transport.

The present consultation gives the Member States, other Institutions and stakeholders the opportunity to express their views on the various issues at stake. The Commission will carefully analyse the outcome of the consultation before deciding to what extent changes to the current rules are necessary and, if appropriate, come forward with a proposal for revised Maritime Guidelines. At this stage, the Commission has not taken position concerning a possible modification of the existing guidelines.

## **B. GENERAL REMARKS REGARDING THE CONSULTATION**

Member States and other interested parties are invited to respond to the questionnaire. Replies can be submitted in all official languages. Given the possible delays in translating comments submitted in certain languages, translations of the replies in English, French or German would enable the Commission to process them more speedily.

Certain questions are intended specifically for public authorities or certain stakeholders and respondents are, thus, not required to address every question. If you are not concerned by a particular question, please reply "not applicable". If not stated otherwise in the questionnaire, the questions are directed to both, public authorities and stakeholders.

Any comments and information submitted beyond the scope of the questionnaire will be welcome, in particular other documents, reports, studies, data sources, etc which may be relevant.

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<sup>1</sup> OL C 13 of 17.01.2004. p.3

The deadline for replies is 14 May 2012. The replies should be sent to the European Commission, DG COMP, Unit F-2, B-1049 Brussels, preferably via e-mail to [Stateaidgreffe@ec.europa.eu](mailto:Stateaidgreffe@ec.europa.eu) indicating the consultation reference "***HT2744 - Review of the Guidelines on State aid to maritime transport***".

## QUESTIONNAIRE

*NOTE: The following questionnaire follows the structure of the [Community Guidelines on State aid to maritime transport](#). You are requested to follow the order of the questions, even though you are not required to reply to all questions. You can also submit additional information that you consider relevant and which does not fit the questions in this questionnaire.*

### A. ABOUT YOU

Please describe the main activities of your company/organisation/association. Please provide your contact details below.

*Name*

*Organisation represented*

*Location (Country)*

*E-mail address*

For the sake of transparency, the Commission intends to make accessible the replies to this questionnaire on its website. In the absence of reply to the following questions, the Commission will assume that the response contains no confidential elements and can be divulged in its entirety.

For rules on data protection on the EUROPA website, please see: [http://ec.europa.eu/geninfo/legal\\_notices\\_en.htm#personaldata](http://ec.europa.eu/geninfo/legal_notices_en.htm#personaldata)

**A.1. Do you object to the disclosure of your identity?**

**A.2. Does any of the exceptions foreseen in Article 4 of Regulation 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents<sup>1</sup> apply to your response? If so, please indicate clearly which parts should not be divulged, justify the need for such confidential treatment and provide also a non-confidential version of your response for publication on our website.**

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<sup>1</sup> OJ L 145, 31 May 2001, p. 43.

## B. GENERAL QUESTIONS

### B.1. Assessment of the market/regulatory developments

**B.1.1** *Based on your knowledge and information at your disposal, what are the main developments in the maritime industry since 2004 with respect to*

*(a) world's seaborne trade<sup>2</sup>, the number of containers transported<sup>3</sup>, the overall tonnage of the world fleet<sup>4</sup>; what were the effects of the global crisis and are there already signs of recovery? If possible, please provide the same data per country, per company and for the years since 1989.*

*(b) market position of the EU maritime industry (EU controlled and EU flagged ships? How would you describe the current competitive situation of the various EU companies in the maritime sector in comparison with non-EU companies and the rest of the world<sup>5</sup>? Where available, please provide the relevant data on, for instance, leading players, market shares, market share evolution in relevant markets, etc.*

*(c) number of passengers transported and passenger-km performed; the overall capacity of the fleet of passenger vessels, split by different type of vessels;*

*(d) regulatory changes (at national, EU and international levels) concerning, for example, security and safety standards, on board and on shore working standards, training requirements, flag share requirements, international agreements, transport and competition with other modes of transport, tourism, tax policies, successive EU enlargements in 2004 and 2007;*

*(e) main technological, regulatory, etc. developments since the introduction of the Guidelines which have impacted on labour conditions and more specifically, on labour costs. What are the likely developments in the future?*

*(f) flagging of vessels: proportion (and its change over time) of a Member State's controlled/ owned fleet registered under its flag, under other Member States' flag and under non-EU flag; extent of switching over time between Member States' flags and between EU flags and non-EU flags (and possible reasons for such switching). In particular, are you aware of sources containing statistics related to the flagging history of the EU fleet (e.g. movements of vessels among EU registers, or between EU and non-EU registers)? What are in your view the driving forces behind the evolution of EU flags over time (in terms of number of vessels and/ or tonnage). Please distinguish between factors related to measures falling under the scope of the current guidelines or other State Aid*

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<sup>2</sup> Measured in tonnes and tonne-kilometres.

<sup>3</sup> Measured in 20 Foot Equivalent Unit (TEUs).

<sup>4</sup> Measured in Deadweight tonnage or gross tonnage.

<sup>5</sup> Measured by different indicators, such as: number of EU controlled and EU registered fleets, fleet capacity (existing ships and newbuilts), container shipping and other types of shipping activities, nationality of best performing companies, etc.

*measures and exogenous factors (e.g. related to technological developments, demand for maritime transport services, non-EU countries' policies, etc);*

*(g) employment by EU and non-EU registered shipowners on board of both EU and non-EU citizens;*

*(h) employment by EU and non-EU registered shipowners on shore of both EU and non-EU citizens; and*

*(i) employment of EU and non-EU citizens in maritime clusters*

*As regards the above questions, please provide relevant data which is in your possession or point to sources where such data and related information could be found.*

**B.1.2** *To what extent these developments could be attributed to State aid measures as opposed to other exogenous factors? Please specify and provide relevant data, if available.*

**B.1.3** *How have maritime companies' business models evolved since the adoption of the Maritime Guidelines? Please describe the main differences, if any, between the business models of European based shipowners and non-European ones?*

**B.1.4** *Which are, in your view, the factors determining European shipowners' choice of the country where they flag their ships and the country where they pay their taxes? Do you expect that these factors will change in the future?*

*(a) to which extent the choice is determined by State aid aspects?*

*(b) to what extent the choice is determined by other factors (for example, better, quicker and/or cheaper administrative services, favourable labour law or the way it is implemented, etc. Please substantiate your view with concrete data and examples.*

*(c) which countries are considered the best in the EU/in the world for ship-flagging and paying taxes and why?*

**B.1.5** *What are the legal, technical or administrative barriers to registering a ship or to moving the head offices of a company from one country to another?*

**B.1.6** *To what extent did the Maritime Guidelines contribute to / hamper this evolution?*

**B.1.7** *What characteristics are making the maritime sector unique from the perspective of State aid control? Please provide a list of substantive sectoral State aid rules which you judge necessary in view of these characteristics? Please clarify which aspects of the maritime transport sector could be satisfactorily addressed by horizontal State aid rules.*

*Please be as specific as possible in your reply indicating also the expected economic, social and environmental impact of the sectoral rules.*

## **B.2. Objectives of the Maritime Guidelines and current challenges for the maritime sector**

The general objectives of the Maritime Guidelines are contained in Section 2.2 thereof.

**B.2.1** *Which are, in your view, the likely developments and where do you see the major challenges for the maritime sector in the short (during the next year) and medium term (in the next 3 years) future. Do you see possible implications regarding the Maritime Guidelines?*

**B.2.2** *Do you consider that the Maritime Guidelines laid down the basis for a satisfactory State aid policy in the maritime sector today?*

**B.2.3** *Do you consider that the objectives indicated in the Maritime Guidelines are still valid? Should they be modified and, if yes, how? Do you consider that they should be ranked and weighted and, if yes, in what way? Please provide justification of your opinion and be specific as possible, providing data and narrative explanations.*

**B.2.4** *Which are in your opinion the market failures present in (or, more generally, the objectives of common interest related to) the maritime transport industry, which have been successfully addressed by the current State aid measures and which are the ones that have not been addressed successfully? In the latter case, do you find insufficient the general provisions of the Guidelines or their implementation by Member States? What is in your view the most effective way to address the market failures present in the maritime transport industry?*

**B.2.5** *Do you think that there are positive or negative externalities associated with flagging-in vessels under EU flags? Please explain. How important are they? Please substantiate with data, if available.*

**B.2.6** *Do you consider that State aid measures are necessary to allow Member States to impose stricter requirements on the industry as regards working conditions and environmental aspects without prompting delocalization?*

## **B.3. Application of the Maritime Guidelines**

*Information requested from public authorities*

*Did you grant State aid under the Maritime Guidelines since 2004? If yes:*

**B.3.1** *Please indicate the total amount of aid (in million €) granted by your authorities (region/Member State) between 2004 and December 2011, on a yearly basis, under the Guidelines. Please specify the aid amounts under each specific provision of the Guidelines, and, if possible, distinguish whether the aid was given under an approved State aid scheme or as individual aid:*

- *Fiscal aid in the form of tonnage tax and other fiscal measures*
- *Coverage of labour related costs for seafarers – reduction/exemption from social contributions and reduction/exemption from income tax*
- *Crew relief aid*
- *Investment aid*
- *Regional aid*
- *Training aid*
- *Restructuring aid*
- *Aid for short sea shipping*
- *Compensations paid for imposed Public Service Obligations and signed Public Service Contracts*

**B.3.2** *Please indicate the total number of beneficiaries that received aid under the Guidelines during the period indicated above. Please distinguish, if the beneficiaries were (a) shipowners or (b) any other entities.*

*Information requested from public authorities and enterprises*

**B.3.3** *In general terms, what is your experience with the application of the Guidelines? Do you consider that the guidelines have had an impact on the EU flag (preventing out-flagging to third countries) and on EU employment of seafarers or various types of investments (training, communication on board, etc.)? Please provide relevant data, if available.*

**B.3.4** *What are the positive/negative impacts of this aid? When answering the questions (a) to (h) below, please be as specific as possible, providing concrete data and narrative detailed explanations, please try to quantify each impact.*

*(a) What impact does it have on the global economic position of the EU maritime industry (in terms of market share, turnover, size and capacity of controlled and/or registered fleet, etc.)?*

*(b) Does it have an impact on employment levels in the shipping industry, for example in terms of numbers and quality of overall jobs created or lost?*

*(c) What is the impact on jobs created for seafarers in general and seafarers with EU/EEA nationality, in particular?*

*(d) What is the impact on jobs created in the on-shore maritime activities of shipping companies?*

*(e) What is the impact on jobs created in the maritime cluster as a whole?*

*(f) Does it promote better qualifications of workers, better environmental conditions/products?*

*(g) Does it have positive or negative direct or indirect effects on other aspects of Member States' economic activity (regional, wider maritime cluster, etc)?*

**B.3.5** *Do you consider that the Guidelines should be revised in light of the developments in the industry? Alternatively, do you consider the Guidelines (i) should not be modified or (ii) should be abolished so that the general rules on State aid should apply? Which other actions do you consider appropriate?*

**B.3.6** *In case you consider that the Maritime Guidelines should be revised, what changes, in terms of structure and substantive points, on the one hand, and other minor points, on the other hand, would you recommend and why?*

#### **B.4. Aid granted to maritime transport companies under other State aid instruments - information requested from public authorities**

Companies carrying out maritime transport are eligible for aid under the horizontal State aid instruments.

**B.4.1** *If public authorities in your Member State have granted State aid for shipping companies under State aid instruments other than the Maritime Guidelines:*

*(a) Please indicate the total amount of aid (in million €) granted for shipping companies under horizontal State aid instruments, **specifying the legal basis and objective**, between 2004 –December 2011, on a yearly basis.*

*(b) Please indicate the percentage of aid granted respectively for shipping companies under the Maritime Guidelines and under horizontal State aid*



*instruments, specifying the legal basis, between 2004 –December 2011, on a yearly basis.*

## **B.5. Undue distortion of competition within the EU**

**B.5.1** *Do you consider that there are competition distortions in the EU maritime industry related to misinterpretation/wrong application of the Guidelines or the Commission's decisions? Please substantiate your view with concrete examples and data.*

**B.5.2** *How do you appreciate the potential scope for subsidy races among Member States?*

**B.5.3** *Are there any national provisions in the EU within the remits of the Guidelines (such as tonnage tax and reductions or exemptions from social protection contributions and from income tax) which render a particular national State aid scheme more advantageous than the other existing schemes in the EU? What are the particular provisions/conditions which render this scheme more advantageous?*

## **B.6. Scope of the Maritime Guidelines and eligible activities**

**B.6.1** *Do you consider that the inclusion in the scope of the Maritime Guidelines of tugboats and dredgers is appropriate? If yes, is the 50 % rule adequate? Should the percentage be increased or decreased? What are the current national rules/administrative practices with respect to such types of vessels?*

**B.6.2** *Do you consider that the inclusion in the scope of the Maritime Guidelines of cable layers, pipeline layers and research vessels is appropriate? If yes, should a similar to the 50 % rule applied to tugboats and dredgers be introduced? What are the current national rules/administrative practices with respect to such types of vessels?*

**B.6.3** *Do you consider that other activities carried out at sea should be also eligible for State aid under the Maritime Guideline, such as, but not limited to derrick barges<sup>6</sup>, cable repair vessels, diving support vessels, oil well stimulation vessels, pilot vessels<sup>7</sup>, survey vessels, hydrographical surveying and construction in a marine environment, vessels providing off shore services, mobile platforms, etc.? If yes, should a similar 50 % rule as to the one for tugboats and dredgers be applied? What are the current national rules/administrative practices with respect to such types of vessels?*

**B.6.4** *In your view, should cruise services be eligible for State aid under the Maritime Guidelines? To what extent national laws/ administrative practices already now allow granting aid with respect to cruise ship operation? To what extent the activities on-board such ships (casino, spa, entertaining services, hotel services while staying in ports, etc.) are*

<sup>6</sup> This vessel, similar to crane vessel, is used for offshore drilling platform construction and is suitable for work in rough seas.

<sup>7</sup> Pilot vessels are used for ensuring boarding of pilots on bigger ships.

*ancillary to the transportation of passengers or constitute the main revenues of such ships? To what extent such services are billed separately and to what extent they are priced as a package together? To what extent the personnel on board and on shore in this industry comply with qualifications requirements identical or similar to "typical" maritime transport? Does the industry face competitiveness constraints from outside the EU?*

**B.6.5** *In your opinion, should ancillary activities related to transportation of cargo and passengers be eligible for State aid under the Maritime Guidelines? If yes, what types of activities? Do you find the Commission's differentiation established so far between eligible and non-eligible activities adequate<sup>8</sup>? What should be the definition of ancillary activities for the purpose of the application of the Maritime Guidelines?*

**B.6.6** *Do you consider that it would be appropriate to include in the maritime guidelines provisions allowing for State aid to reimburse shipowners for the costs related to the use by seafarers for their own purpose of internet facilities on board the ship with the aim of improving living conditions on board?*

**B.6.7** *Do you have any other comments concerning the scope of the Maritime Guidelines?*

## **C. TONNAGE TAX AND OTHER FISCAL MEASURES**

Section 3.1 of the Maritime Guidelines deals with fiscal treatment of shipowners. In particular, they give as examples the following fiscal measures which constitute aid, which could be compatible under certain conditions: (i) tonnage tax<sup>9</sup>, (ii) accelerated depreciation on investment in ships or (iii) the right to reserve profits made on the sale of ships for a number of years on a tax-free basis, provided that these profits are reinvested in ships.

**C.1.1** *Do you consider that these fiscal measures are still necessary? Are they equally necessary for freight and passenger transportation? Please justify your reply on each of the three fiscal measures.*

**C.1.2** *As a public authority, have you ever applied and do you still apply such measures?*

<sup>8</sup> The eligibility of activities on board passenger vessels has been limited to the consumption on board of goods and services inherent in a voyage at sea as well as revenues derived from the rent of advertising billboards on board. On this basis, the Commission refused to consider profits derived from gambling, casinos, the sale of luxury goods and excursions for passengers as eligible. Similarly, the following profits have been considered as eligible for tonnage tax: renting out of containers, self-handling of cargo or costs of handling loading and unloading of cargo, storage and customs clearance, operation of ticketing facilities and passenger terminals, and operation of office facilities in relation to shipping activities subject to tonnage tax. Finally, for both freight and passenger transport shipowners' revenues from bank accounts, insurance and currency hedging have been accepted as eligible for tonnage tax.

<sup>9</sup> The system of replacing the normal corporate tax system by a tonnage tax so that the shipowner pays an amount of tax linked directly to the tonnage operated and irrespective of the company's actual profits or losses.

**C.1.3** *As a company, have you ever benefited from such measures? If yes, what was the duration, amount of aid, types of beneficiaries, level of tax applied and eligible activities?*

**C.1.4** *Do you consider that the tax advantages granted to shipowners facilitate the development of certain economic activities within the meaning of Article 107(3)(c) of the Treaty? If yes, to what extent?*

**C.1.5** *Can you provide evidence of the changes provoked by the introduction of the measures in a particular Member State (or by subsequent amendments of these measures)?*

**C.1.6** *In your view, would it be appropriate to establish some kind of conditionality between employment of EU/EEA seafarers and eligibility for tonnage tax? Please justify your reply on the basis of concrete data, examples and detailed narrative.*

### **Flag requirement**

The same section of the Maritime Guidelines contains a flag requirement which obliges ship-owners to register their additional ships within the EU if they want to get the tonnage tax treatment for these additional vessels only under very specific circumstances.

**C.1.7** *Do you consider that the flag requirement currently contained in the Maritime Guidelines is still adequate?*

**C.1.8** *If not, do you think that the flag requirement should be stricter or more flexible?*

**C.1.9** *As a public authority, how do you verify at a company/group level compliance with this requirement?*

**C.1.10** *Do you think that besides of the flag requirement there should be other eligibility conditions to benefit from the tonnage tax? What could these conditions be? For example, should eligibility for tonnage tax be subject to availability of space for cadets (berths for cadets onboard)? Please justify your reply on the basis of concrete data, examples and detailed narrative.*

### **Eligibility of chartering activities**

Regarding **chartering in with crew**, the Commission has stated in its decisions that it will not accept under tonnage tax companies whose entire fleet consists of ships chartered in with crew from other companies<sup>10</sup>. However, it has been accepted that no more than 80% of the company's fleet under TT consists of ships that could be chartered in with crew from third parties. Going up to 90% is also possible, but under strict conditions<sup>11</sup>.

<sup>10</sup> See e.g. § 19 of Commission decision in case C2/2008 – Tonnage tax modifications – Ireland.

<sup>11</sup> According to Article 2 of Commission decision in case C 2/08 – TT modifications – Ireland, the following conditions should be met: each of the chartered-in vessels operated by a given tonnage tax company shall satisfy at least one of the following conditions: (a) the chartered-in vessel is registered in a

**C.1.11** *Do you consider that the chartering in with crew activities meet one or more of the objectives of the Guidelines? To what extent a high cap for chartering in with crew (80%) is justifiable?*

**C.1.12** *As a public authority, how do you check compliance with the conditions described above? Have you met any administrative difficulties in applying them? In particular, how do you apply the 80% and 90% rules in connection with the requirement that at least 60% of the fleet should be flagged in the EU/EEA?*

Regarding bareboat chartering in (i.e. **chartering in without crew**), the Commission's constant practice is that such ships are assimilated to owned ships, as the shipowner fully operates them and assumes all legal responsibilities (insurance, liabilities, etc.).

**C.1.13** *Do you agree that bareboat chartered in ships should be assimilated to owned ships? Please justify your reply.*

### **Chartering out with crew**

**C.1.14** *Do you consider that in such activities, crews maintain and develop essential skills which they can later on use in on shore activities, thus contributing to the development of maritime know-how and the maritime cluster in the EU/EEA?*

**C.1.15** *Do the shipowners ensure commercial management of their ships?*

**C.1.16** *As a public authority, have you applied tonnage tax scheme to such types of activities and if yes, under what conditions? Please provide a copy of the relevant national legislation.*

### **Bareboat chartering out**

**C.1.17** *What conditions should be introduced in order to ensure that such activities are eligible only in case of temporary overcapacity? What should be time-limitations (not to cover structural overcapacity)? Should there be a cap in terms of percentage of tonnage under TT?*

**C.1.18** *As a public authority, have you applied a tonnage tax scheme to such types of activities? If yes, under what conditions? Could you also provide the relevant national legal provisions on bare-boat chartering out?*

**C.1.19** *Should there be any additional safeguards in this respect besides from the condition that bareboat chartering out should only be allowed for short term overcapacity or, on the contrary, should there be more flexibility in this respect?*

## Eligibility of revenues from pooling<sup>12</sup>

**C.1.20** *As a public authority, have you ever applied tonnage tax to pool managers and if yes, under what conditions?*

**C.1.21** *Do you consider that if pooled ships fly an EU/EEA flag or have their crew and technical management carried out on the territory of the EU/EEA, this is sufficient to include the revenues of the pool manager of these ships as eligible for tonnage tax?*

**C.1.22** *In your view, should there be a requirement that pool managers should also own and fully operate (ensure commercial, technical and crew management of the ship) a certain number or percentage of the ships it manages in order to be eligible for tonnage tax? If yes, what should be the number/percentage of those ships? Please justify your reply by means of data and detailed narrative.*

## Eligibility of capital gains from shipping-related assets under TT; treatment of capital gains related to earlier over-depreciated ships and other assets - information requested from public authorities

**C.1.23** *To what extent and under what conditions should the capital gains from shipping-related assets be covered by TT and why? Is there differentiation in the rules for assets bought before and after company's/ship's entry into TT?*

**C.1.24** *Are there any transitional measures applied by your authorities when companies switch from corporate tax into tonnage tax, in particular when they have accumulated so-called hidden tax liabilities before switching to the tonnage tax scheme (for instance because they have been using accelerated depreciation or other tax advantages in the context of corporate tax)? If yes, please explain in details these measures*

**C.1.25** *Do the present national rules provide for the differentiation in rules for assets bought before and after entry into TT?*

**C.1.26** *Please provide copies of the relevant legislation governing the above issues and explain in details the applicable procedure.*

## Application of ring-fencing measures – information requested from public authorities

Ring-fencing measures applied in the context of tonnage tax aim at preventing "cherry picking" by the tonnage tax companies (for example, by choosing a particular period of paying tonnage tax when it is most beneficial) or the artificial

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<sup>12</sup> Shipping pools are defined as "joint ventures between shipowners to pool vessels of similar types, with central administration, which are marketed as a single entity, negotiating voyage/time charter parties and contracts of affreightment, where the revenues are pooled and distributed to owners", Murray, K (1994), Shipping Pools and EC Competition Law; A Guide for the Shipping Industry. London, 2-4 March.

creation of tax credits (for example, from over-depreciation) or tax evasion through distorted intra-group transactions<sup>13</sup>.

**C.1.27** *Please describe the ring-fencing measures, if any, applied by your authorities with reference to their legal basis and provide a copy of the legal text(s) where such measures are contained.*

**C.1.28** *In your view are these ring-fencing measures sufficient to prevent spill over of State aid from eligible to non-eligible activities? Please justify your reply.*

**C.1.29** *Do you face any administrative difficulties in applying these measures?*

**C.1.30** *What sanctions do you apply to prevent abuses of the TT system?*

## **D. LABOUR RELATED COSTS**

Section 3.2 of the Maritime Guidelines provides for two measures: (i) reduced rates of contributions for the social protection of EU seafarers employed on board EU registered ships; and (ii) reduced rates of income tax for EU seafarers on board EU registered ships.

**D.1.1** *Do you consider that the two measures described above are still necessary? Please justify your reply for each of the two measures.*

**D.1.2** *In your view are the eligibility conditions for seafarers and ships (to be registered in the EU) contained in this section sufficient and ensure compliance with the objectives of the Maritime Guidelines?*

**D.1.3** *Have you applied (in case of a public authority) or benefited from (in case of a company) aid to employment on the basis of the General Block Exemption Regulation (GBER)<sup>14</sup>? If yes, what was the amount of the aid, types of beneficiaries and eligible activities?*

**D.1.4** *In your view to what extent this measure contributes to the employment of seafarers and, in particular, of EU seafarers and/or to increasing the competitiveness of European shipowners? Please justify your reply with the support of data, examples and narrative explanation.*

**D.1.5** *Do you believe that State aid measures should be targeted at a particular labour-force category (e.g. highly qualified officers)?*

<sup>13</sup> On the basis of Section 3.1, subparagraph 19 of the Maritime Guidelines, the Commission has accepted in its decision-making practice the following features in a number of tonnage tax schemes: (i) verification of commercial transactions across the ring fence, based on the arm length's principle; (ii) rules on the fair sharing of the cost of capital expenditure between eligible and non eligible activities; (iii) rules on the fair allocation of revenues between eligible and non eligible activities; (iv) an all-or-nothing option for maritime groups for a lock-in period of ten years.

<sup>14</sup> Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Article 87 and 88 of the Treaty (General block exemption Regulation), OJ L 214, 9.8.2008, p. 3.

## E. CREW RELIEF

Chapter 4 of the Maritime Guidelines provides for payment or reimbursement by the Member State of the costs of repatriation of EU seafarers working on board EU registered ships (crew relief).

**E.1.1** *In view of the fact that this provision has been hardly used, do you consider that it is still necessary? Would you agree if it is removed from the text? Please justify your reply.*

## F. TRAINING AID

Chapter 7 of the Maritime Guidelines allows for training aid for seafarers in addition to Article 39 of the GBER<sup>15</sup>.

**F.1.1** *Can you please provide a list of cases in which Art 39 (2) GBER, Art 4(6) Training Aid BER and/or Chapter 7 of the Maritime Guidelines were applied to maritime training aid, and the estimated aid amounts?*

**F.1.2** *In your opinion, is this provision of the Maritime Guidelines still necessary or do you consider that the GBER rules would suffice?*

**F.1.3** *If it is kept, would you consider that modifications are necessary?*

## G. SHORT SEA SHIPPING

Chapter 10 of the Maritime Guidelines allows for start-up aid to new or improved short sea shipping<sup>16</sup> services under certain conditions.

**G.1.1** *In view of the fact that this provision has been used only once, do you consider that it is still necessary? Would you agree if it is removed? Please justify your reply.*

**G.1.2** *Do you consider that Member States should have the possibility to grant start up aid to short sea shipping or Motorways of the Sea services, even when these services have not and will not apply for EU funding under the Marco Polo II programme or the TEN-T? Please justify your reply providing data on identified market failures.*

**G.1.3** *Motorways of the Sea represent the maritime dimension of the trans-European Transport Networks. According to the present regime<sup>17</sup>,*

<sup>15</sup> Regulation Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation), OJ L 214, 9.8.2008, p. 3.

<sup>16</sup> This is to be understood as "the movement of cargo and passenger by sea between ports situated in geographical Europe or between those ports and ports situated in non-European countries having a coastline on the enclosed seas bordering Europe".

<sup>17</sup> In compliance with the Communication from the Commission providing guidance on State aid complementary to Community funding for the launching of the motorways of the sea (2008/C 317/08 of 12.12.2008).

*Member States are allowed to grant to Motorways of the Sea services complementary State aid of higher intensity and longer duration than otherwise provided in the Maritime Guidelines. Do you consider that this possibility should be maintained or modified in the future?*

**G.1.4***Do you consider that short sea shipping routes to non-EU countries should be eligible for start-up aid in certain cases, such as for routes towards outermost regions?*

## **H. APPLICATION OF THE AID CEILING - INFORMATION REQUESTED FROM PUBLIC AUTHORITIES**

Chapter 11 of the Maritime Guidelines sets a general ceiling to the aid that can be granted under chapters 3 to 6 of the Guidelines

**H.1.1***Do you consider that the aid ceiling is appropriate?*

**H.1.2***Should the aid ceiling be defined in a different way? What would be your suggestions for such an aid ceiling?*

**H.1.3***Please provide copy of the applicable **national rules** in respect to the control of the aid ceiling.*

**H.1.4***Please provide details **how you calculate the ceiling**. Inter alia, please explain how do you apply aid ceiling in case of investment aid measures: do you count the whole amount of aid in the year when the asset is acquired or you spread the aid amount over the life-time of the asset? How do you treat for aid ceiling purposes (if at all) relief measures related to previously over-depreciated ships being transferred to TT (in particular relief measures related to hidden tax liabilities stemming from the previous over-depreciation)? Why? What treatment would you propose for the above types of measures (including the calculation aspect) in the context of possible clarification of rules in the context of the review of the Guidelines?*

**H.1.5***Do you calculate the aid ceiling at individual company level (or a group level if the whole group is eligible for tonnage tax) or at whole industry level?*

**H.1.6***To what extent is the aid ceiling fixed by the Guidelines is used in practice in your Member State (i.e. is the maximum aid intensity granted or less)?*

**H.1.7***What types of administrative difficulties do you face in applying the ceiling?*

**H.1.8***What other types of clarifications, if any, you deem necessary regarding the application of the aid ceiling?*



## **I. NOTIFICATION AND REPORTING OBLIGATIONS – ASSESSMENT REQUESTED FROM PUBLIC AUTHORITIES**

Chapter 12 of the Maritime Guidelines sets out specific notification and reporting obligations:

**I.1.1** *What is your experience in complying with these provisions?*

**I.1.2** *In your view, are there alternative measures for ensuring compliance with the provisions of the Maritime Guidelines?*