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

The Norwegian Shipowners’ Association (NSA)

NSA represents the interests of its shipping members, that is 160 shipping companies from all segments of the maritime shipping and offshore sector: short sea shipping, deep sea, rigs, and offshore service activities.

Organisation represented

NSA represents the interests of its shipping members, that is 160 shipping companies from all segments of the maritime shipping and offshore sector: short sea shipping, deep sea, rigs, and offshore service activities.

Location (Country)

Norway

cds@rederi.no

dlct@rederi.no

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

A.1. Do you object to the disclosure of your identity? No.

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 documents1 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. No.

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, the number of containers transported, the overall tonnage of the world fleet; 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.

The Norwegian Shipowners’ Association has noted a growth of world seaborne trade covering all types of sea transport, including – but not limited to – containerised cargo. Also the overall tonnage of the world fleet has increased.

Measured in value, the Norwegian shipping companies control the world’s fourth largest fleet. The world’s second largest and the most technologically advanced offshore fleet is controlled by Norwegian shipping companies. The market shares are most important in the most advanced and competence incentive businesses. Our strong international position is strengthened by a complete Norwegian maritime cluster with international leading companies in most segments.

For further information regarding world trade, European fleet, etc. we refer to the European Community Shipowners’ Associations (ECSA) submission.

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? Where available, please provide the relevant data on, for instance, leading players, market shares, market share evolution in relevant markets, etc.

European shipping operates in free, global markets with low barriers of entry and, accordingly, intense global competition. The main international competitors benefit from much lower cost structures and in many cases enjoy very active support from national governments interested in developing their maritime sector.

The Maritime Guidelines were developed in response to this fierce competition from international competitors and they have enabled Norway to adopt state aid measures which have improved the fiscal and operating climate for shipping companies in line with world norms. In doing so, the Maritime Guidelines have enabled the Norwegian fleet to compete with international competitors and they have been a crucial factor in the containment and reversal of the previous decline of the Norwegian shipping sector. They have consequently delivered significant benefits for the wider maritime cluster, for the Norwegian economy and employment.

During the last ten years, the development of the value of the Norwegian fleet has been very positive. In general terms, the Norwegian share of the world’s ship value varies between 6 and 7 percent and it is higher in 2011 compared to 2004 when the Guidelines were introduced. An interesting observation, is that the Norwegian fleet’s value per dead weight ton (dwt) was lower than the world average in 2002, whereas it was more than twice as high as world average in 2011. This confirms the enormous restructuring Norwegian shipping companies have gone through the last decade. This positive value creation development has taken place in all shipping segments. Today,
the Norwegian fleet represents a world leading fleet with high-end technological vessels, high values and requiring advanced know-how and competence. The trend has been towards a more innovative and competence driven industry.

Technologically based creative responses – the introduction of new ship types and the establishment of specialized niches – have been a common element for most of the Norwegian shipping companies.

The most important change in the Norwegian fleet has been in the offshore segment. Ten years ago the value of traditional shipping activities was 6 times higher than those for the offshore vessels. Today, the value is approximately equally the same. This strong development is also reflected in the Norwegian Shipowners’ Association’s present membership: more than half of the member companies are involved in offshore service activities. Today the Norwegian offshore fleet comprises more than 500 vessels with a total fleet value of approximately 21 Billion USD. This makes it the world’s second largest fleet and the world’s most value intensive offshore fleet in the world.

The following graph shows the development in the different shipping segments:

GRAPH 1 Source: Lloyds/Menon Business Economics
Since the adoption of the present Guidelines, we have experienced highly beneficial effects in the Norwegian maritime cluster, in terms of value added (contribution to GDP). The following graphs illustrate these positive effects, in relation to both the shipping industry and the total maritime cluster.

**Shipping industry’s turnover and value added (contribution to GDP) in Norway. Billion NOK**

GRAPH 2 Source: Menon Business Economics

**The maritime industry’s turnover and value added (contribution to GDP) in Norway. Billion NOK**

GRAPH 3 Source: Menon Business Economics
In the period 2000 – 2011, the turnover of the Norwegian maritime cluster increased from 165.7 billion NOK to 384.1 billion NOK, i.e. an increase of 131.8%. In the same period, the added value of the maritime cluster increased from 52.3 billion NOK to 133 billion NOK, i.e. an increase of 154 %.

The adoption of the Maritime Guidelines combined with a National Maritime Strategy, have been essential for the increase in terms of employment in the wider cluster, in terms of added value (contribution to GDP) and turnover. See graph 2.

The Norwegian shipping companies constitute the core of the Norwegian maritime cluster, with more than 100 000 employees in the country, creating values of approximately 125 Billion NOK a year (approx. 16 Billion Euros).

Clusters are important because they play a fundamental role in knowledge creation, innovation, accumulation of skills and the development of pools of employees with specialized expertise.

The established maritime industry cluster in Norway has been a major factor in helping competence strength throughout the value chain to promote innovation in the development of new technology-intensive vessel concepts.

A recent empirical study “Knowledge based Norway”, lead by professor Torger Reve, demonstrates that only 3 out of 13 Norwegian industry clusters have taken global market positions and become Global Knowledge Hubs. Two of them are the offshore oil & gas industry and the maritime industry. The offshore oil & gas is closely interlinked with the maritime cluster. Such a strong global position would not have been possible without securing the maritime shipping industry a global competitiveness through the Maritime Guidelines.
Norwegian offshore companies contribute to more than 80 percent of the total activity on Norwegian shipyards. A study commissioned by STX OSV’s five Norwegian shipyards, demonstrate that almost 70 percent of all products and services related to these shipyard activities originate from Norway. The same study demonstrates that every STX OSV shipyard employee generates 5.4 other jobs, mostly in the region where the shipyard is located.

Reference is also made to other recent studies, such as studies commissioned by the European Commission, which evidence that individual Member States that have adopted state aid measures in accordance with the Maritime Guidelines have experienced an increase in terms of employment in the wider maritime cluster, in terms of added value (direct and indirect) and in terms of contribution to the balance of payment. The national study mentioned above is a confirmation of these positive findings.

Despite this success, the Norwegian shipping industry continues to face strong and unequal competition from international competitors, particularly from Asia and the Far East, which offer an attractive and competitive framework whilst respecting international quality and safety standards. There is also increasing competition for the location of shipping activities and European shipping companies – being global operators – will take decisions on the basis of the business framework that is offered to them. This business framework will determine where future growth takes place. But without a continuation of the Maritime Guidelines, there would be a serious risk of a further relocation of shipping and shipping-related activities away from Europe. This has been confirmed by the 2009 Communication “Strategic goals and recommendations for the EU’s maritime transport policy until 2018”.

c) Number of passengers transported and passenger–km performed; the overall capacity of the fleet of passenger vessels, split by different type of vessels;

Reference is made to ECSA submission. Transport of passengers represents an important segment of the European shipping sector, and constitutes one of many segments in the Norwegian shipping sector.

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;

Norway attaches great importance to global regulations, and implements the highest international and European standards as regards safety, environment, security, competence. A level playing field is crucial in this context. Through the EEA agreements, all acquis communautaire for the shipping industry, including maritime safety, security, environment, social affairs, and liability is implemented into Norwegian law and regulations. Thus Norwegian shipping companies have implemented the enormous number of regulatory changes which has taken place since 2004 both on international and European level, into their everyday businesses.

A comprehensive list of relevant EU legislation can be found on the following website: http://europa.eu/legislation_summaries/transport/waterborne_transport/index_en.htm

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?

In the past years, there has been an ongoing trend towards economies of scale resulting in a general increase of the size of ships. This trend has occurred in all relevant shipping markets – including bulk, tanker, container, passenger, offshore and specialized trades.

The combination of larger ships and modern advanced technology has resulted in fewer crew on board ships. This evolution is likely to continue in future. At the same time, increasingly advanced technologies require highly skilled crews.

Impacts on labour conditions other than pay-related are minimized by the existence and continuous development of maritime labour instruments within the ILO and the IMO, which lay down minimum standards; the most comprehensive of these is the ILO Maritime Labour Convention 2006.

Pay-related and labour cost aspects are subject to the position in individual maritime countries across the world and between international shipping markets. There is little that can be influenced here other than through the assurances available through the generally accepted international instruments which govern minimum employment and training standards for seafarers. This is inevitable because of the global nature of shipping and seafaring and is indeed a fundamental consideration justifying and underlying the relevant provisions within the Maritime Guidelines.

The competitive edge of EU seafarers lies in high quality education and specialization.

Reference is also made to description of the development of the Norwegian fleet, see B.1.1.(b).

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

For description of terminology related to flag, reference is made to the ECSA submission.

The most relevant and fundamental factors relating to the presence of a shipping business in a particular state or the use of a particular nation’s ship register or flag are those governing the business and reputational environment for a shipping operation. The competition from other shipping centers throughout the world (particularly in Asia at the present time) is both active and fierce.

A shipping company operating in international trade thus faces several options as to how and where to set up the different components of the business. The location of the company’s headquarters or main shore establishment and the choice of register or flag of the ships it is operating are two of the
most critical considerations. The degree to which that a country (or a regional grouping such as the EU) encourages shipping companies to locate these elements within its territory will determine the success of that country (or regional grouping) as a maritime centre and/or as a flag state. Those political and economic decisions are crucial to success in this context and many subsidiary factors are necessary to underpin that. These include inter alia:

- The assurance of stability in the fiscal, employment and operational regime governing shipping in the country in question;
- The particular government’s international integrity and effectiveness in setting and enforcing proper standards;
- It’s educational structures contributing to the required future skills base;
- It’s efficiency in running the national shipping administration;
- It’s understanding of and receptiveness to the concerns of maritime business (with its particular operating circumstances)

In this context, the existence of the Maritime Guidelines and the willingness of both the European Commission and individual Member States, and Norway, to apply them in a practical and flexible manner are, and will continue to be a Community interest worthy continued support at EU level.

With reference to the objectives of the Guidelines, it is highly relevant to give close attention to the very positive developments of the added value and turnover the Norwegian shipping industry represents as such, as well as into the maritime cluster, reference is made to graphs 2 and 3.

**Flagged fleet**

It is noted that the Norwegian flagged fleet has decreased by 35 % since 2004 in terms of DWT to amount 18.9 million DWT by 2012. However if one looks at the evolution of the fleet based on the number of ships, there has been a decrease of only 19 % over the same period.

**Controlled fleet**

As regards the Norwegian controlled fleet in the period 1998-2012, the fleet decreased by 9 % in terms of DWT to amount 39.4 million DWT by January 2012. However if one looks at the evolution of the fleet based on the number of ships, there has been an increase: in the same period, the Norwegian controlled fleet increased by 9 %.

**The value of the fleet**

Menon Business Economics, commissioned by the Norwegian Shipowners’ Association, has calculated the value of the ten largest shipping nations in the world. The value of the Norwegian commercial fleet was estimated to approx. USD 54 billion at the entry of 2011, which ranks Norway the fourth largest shipping nation world-wide.
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;

Approximately 9% of the 250,000 EU/EEA seafarers are Norwegians, a share which the last decade has been stable. More interestingly, is the fact that the share of officers has increased both in Norway and in European countries. The number of Norwegian and European officers increased by 30% in the same period.

There is no doubt that the strong presence of head offices in Oslo and along the Norwegian coast give job opportunities to many thousand people in these companies. Highly relevant in this context is also the common experience in Norway that when Norwegian seafarers decide to go ashore, they do so in Norway by seeking jobs in the companies’ head offices or in the wider maritime cluster.

![Number of Norwegian seafarers, foreign going and in coastal traffic, 2001-2010.](image)

GRAPH 4 Source: Eurostat/Statistics Norway

i) Employment of EU and non-EU citizens in maritime clusters

A study, made by Menon Business Economics\(^3\), demonstrates that approximately 100,000 people are employed in the Norwegian Maritime Cluster. There has been an increase of employment both for the shipping companies, as well as a strong increase in the maritime cluster since the present Guidelines were adopted. Since 2000, the increase in employment in the cluster has been almost 40%. The graph below demonstrates an increase of employment both for the shipping companies, as well as a strong total increase in the maritime cluster since the existing guidelines were adopted.

---

\(^3\) Menon Business Economics, *Value Creation in the Maritime Cluster.*
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.

Evolution of EU/EEA fleet and the Maritime Guidelines

It follows from the above answers that since the introduction of Maritime Guidelines in 1997 and their prolongation in 2004, the decline in Norwegian shipping has been halted. Furthermore, both in terms of value of the fleet, as well as the offshore fleet in particular there has been a very positive evolution.

The Guidelines create employment opportunities for EU/EEA seafarers

The Maritime Guidelines allow for the alleviation of labour-related costs (for example, through reduced rates of income tax and social security contributions for EU/EEA seafarers and through training support) in order to create a competitive cost environment for the employment of high-cost EU/EEA seafarers and to support the efforts of Norwegian shipping companies to attract European young people to a maritime career. This framework of positive measures has been successful in that the Guidelines have helped safeguard, and in many cases, expand jobs for EU/EEA seafarers (particularly officers) and achieve greater stability in the development of the vital maritime skills base in Norway.

The contribution of shipping to the broader European economy

As illustrated in graph 6 below, the Norwegian shipping sector makes important contributions to the broader Norwegian economy, both through contributions to GDP and to employment. These contributions are both direct and indirect.

See also ECSA submission Annex 1 as well as e.g. the study carried out by Policy Research Corporation in 2008 on behalf of DG MARE.
Furthermore, the Norwegian maritime cluster is one of Norway’s most important sources for value creation and welfare. The cluster has a strong global influence based on competence and innovation. This has been demonstrated through several studies, more recently through the study “Knowledge Based Norway”. Furthermore, no other industry in Norway has a higher knowledge based value creation than the maritime industry. Moreover, an important part of the shipping’s value creation flows back to the public authorities in the form of other taxes and social contributions (from onshore employees and from general spending), or in the form of increased investments onshore.

Value creation and wage costs per employee. Comparison of the maritime industry with the entire Norwegian industry in 2010, tNOK

![Value creation and wage costs per employee. Comparison of the maritime industry with the entire Norwegian industry in 2010, tNOK](image)

As previously described and illustrated, the Norwegian shipping industry is also at the core of the substantial wider maritime cluster in Norway. The measures introduced under the Maritime Guidelines have boosted professional seagoing skills and had very positive spill-over effects on the maritime cluster – including seaports, equipment manufacturers, suppliers, shipyards, insurers, law firms, classification societies, banks and brokers – in terms of value creation and employment, earnings and the balance of payments, and the broader Norwegian economy.

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?

Business models vary enormously, also within the EU. They evolve constantly and the Maritime Guidelines should accommodate these developments. To the knowledge of the Norwegian Shipowners’ Association, business models of shipping companies have not been adapted specifically in response to the Maritime Guidelines. Any evolution would have occurred as a result of other factors – in the light of global competition, the changing world economic and financial framework, or specific company circumstances.
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?

a. The choice of country in which to base the shipping business (and pay taxes)

A company’s decision on where to base its operation or its tax base is fundamental to its future commercial success and founded on general business judgements as to the nature of the fiscal and operating climate in a particular country. Stability of that climate and a practical understanding by the government in question of the specificities of the shipping industry are critical to that decision. Today, for many companies, the availability of a competitive fiscal regime such as tonnage tax is a key component. But a supportive attitude in the face of highly competitive, international, commercial and employment market conditions is also crucial, as is a flexible and pragmatic approach to the concepts of flagging and nationality in an intrinsically global business.

These factors are clearly heavily influenced by state aid aspects, the existence of the current guidelines, and individual Member States’ willingness to take advantage of the measures that they facilitate.

It is important to note that shipping companies wish, in general, to set up and keep their headquarters office and primary operating establishment in their own country. This is because of cultural similarities and other operating advantages including the presence of their national professional maritime skills base. However, for sound commercial reasons, they may equally decide to establish offices or branches in other countries, including outside the EU.

A prolongation of the Maritime Guidelines is essential to encourage EU/EEA shipping companies to maintain their headquarters and primary operating establishments in Europe. Without such continuation, there are many maritime centres across the world, which would jump at the opportunity to welcome EU/EEA shipping companies – and indeed a number are already promoting themselves actively to European companies today.

Non-EU shipping companies, on the other hand, also establish offices and branches in the EU for normal commercial reasons and to gain access to European maritime expertise and know-how. The availability of a competitive regime based on the Maritime Guidelines will not be a reason in itself for non-EU shipping companies to come to the EU, but the benefits of such a regime will facilitate their decision to open offices and branches in EU Member States. Their presence and activity in turn adds value and provides employment within the EU economy.

b. The choice of country in which to flag or register the ships operated.

A ship’s flag is important since it establishes a clear audit trail of responsibility between a ship and a state and for other operational aspects. Use of one or other particular flag or register is not, however, essential for business success (see also the response to B1.1(f) above and B.2.5 below). In
general, a shipowner’s choice of country in which to flag a vessel is determined by the overall standards and professionalism practised by the flag administration as well as by the bureaucracy and costs associated with a flag or register. It may also, as under a., be influenced by the education and qualifications of the local maritime personnel, which in the EU remains of a very high quality.

Choice of the flag may also be dictated by other, purely commercial factors. For example, some commercial contracts may require registration or flagging in a particular country, for reasons particular to the party chartering the specific shipping service. In some cases where the contract relates to operations for a period off a third country’s coast, the ships may be subject to protectionist measures and required to be registered in the country in question.

In this context, the adherence of the flag state to the comprehensive set of internationally accepted maritime conventions adopted by the IMO and ILO (essentially those applied by the Paris Memorandum states) is of great importance. European shipowners – like others – prefer a flag or register that combines practical flexibility with the firm implementation and enforcement of these basic safety, environmental and labour standards at national level.

Furthermore, the choice of the flag may also be dictated by non-commercial factors, such as national politics or national legislation. For instance, certain EU Member States have not yet adapted their national legislation to allow their shipowners to take private armed guards on board national-flag ship in the fight against piracy (e.g. off the Somali coast). In such a case, the shipowner may have no other choice than to flag out to another flag or register that will allow him to take private armed guards.

These considerations, while relevant to state aid aspects, are not governed by them; rather, they operate alongside them. Too rigid an insistence on the location of the flag can be counterproductive by discouraging the use of EU/EEA flags or, in the case of specific contracts as indicated above, may risk losing business for European operators by denying them access to certain markets or facilities.

These factors have determined the decisions of European shipowners’ choice for many years already and they will no doubt continue to determine their choice in future.

In the main registers, the administration is of limited influence. The key determining factors are taxation, and labour conditions, which should be based on the global labour market. Imposing national and/or regional conditions should be avoided.

As regards question B.1.4 (c), as indicated under question B.5.3 below, to our knowledge there are not any national provisions in the EU within the remit of the Maritime Guidelines which render one national state aid scheme more advantageous than another, precisely because of the facilitating nature of these Guidelines.

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?

European shipping companies operate in a global free-trade environment with few market access restrictions. There are thus no or few barriers to moving a shipping-activity, a head office or ship registration between countries other than the physical arrangements and the cost of such a move.
For some shipping sectors (e.g. bulk), it is also easier to move an activity and/or a head office than for other shipping sectors (e.g. container shipping).

In addition, shipping is a highly mobile industry, both in its business and its assets. In this respect, shipping is very different from land-based industries. Flag changes, particularly, are possible in administrative terms within a matter of hours.

It is a given that shipping companies will be required – under flag and port state rules, or both – to comply with the basic international standards, whatever flag they fly. The Maritime Guidelines are essentially neutral to these processes, except to the extent that they have encouraged and continue to encourage – favourable operating conditions in the Member States, which are among those states in the world with the highest standards.

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

The State Aid Guidelines have been crucial for the Norwegian shipping to remain internationally competitive. The shipping industry is a cornerstone of the Norwegian maritime cluster, and the Guidelines are therefore essential for the value creation and employment in the whole maritime cluster. As illustrated in previous answers and graphs, the evolution has been very positive. The availability of people with experience from sea are considered as a prerequisite for innovation and growth in all countries with maritime ambitions. Both the tonnage tax aid and net wage scheme have been, and still are, important/crucial tools for securing a strong maritime industry in Norway.

We refer to the the ECSA submission, and for ease of reference, we include the main summarising points below:

- Shipping operates in a global free-trade environment with few market access restrictions and is subject to fierce, global competitive pressures, even in its domestic markets.
- The Maritime Guidelines were established in direct response to those pressures and were designed to enable the maritime sector to survive in the global markets by matching the no/low tax environment in which international shipping operates; without them, the EU/EEA shipping sector would not survive.
- The full set of the sectoral fiscal, employment and training options in the current Guidelines is required to achieve this aim – bearing in mind that the Guidelines are facilitative rather than prescriptive and that Member States have the opportunity of deciding to apply the right mix of measures to match the arrangements which exist in their country. They could not be applied under the horizontal rules, which cannot provide the necessary flexibility to meet that aim.
- Except for the aspects relating to training and to short-sea shipping (the latter reflects an EU transport policy objective), the Maritime Guidelines do not provide for state aid to the shipping sector in the meaning of net subsidy. Rather, they create a facilitating policy framework based on the alleviation of the high costs on business operating out of the EU imposed by EU/EEA governments. Under this, Member States are allowed to develop and adopt measures applicable to shipping enterprises in their countries relating to the fiscal treatment and employment-related costs of shipping operations, which allow them to remain competitive. Because of this and because no direct subsidies are paid to shipping companies, no inefficient shipping companies are kept alive artificially.
- Specific objectives are set out in the Guidelines, which are designed to safeguard the common European interest – these require benefits in the form inter alia of promoting employment and training within Member States, maintaining maritime know how in the Union, underpinning the
wider maritime cluster, encouraging both business and flagging in Member States and helping to improve the performance of shipping in terms of safety and the environment.

- Distortions of trade and competition within the EU have been kept to a minimum and individual EU/EEA shipping companies continue to compete vigorously in a free and undistorted market. Furthermore, through the notification procedure, the European Commission has monitored closely Member States’ application of measures under the Maritime Guidelines. ECSA is aware of only one complaint submitted against the application of the Guidelines, notably against state aid implemented by the Netherlands for operations by Dutch tugboats; in seaports and on inland waterways in the Community, on which the European Commission adopted a decision in 2002\(^5\). This decision was then acted upon in different Member States. The fact that there has been only one complaint against the application of the Maritime Guidelines is significant evidence of the absence of competitive distortions between EU Member States.

**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.**

The Maritime State Aid Guidelines cannot be compared with other sectoral state aid rules or with the Horizontal Guidelines. The former address distortions between European shipping and its global competitors, while the latter address distortions within the internal market.

It should be noted that there has been no reported distortion of competition within the EU resulting from the Maritime State Aid Guidelines.

**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?**

The historical evolution, described under question B. 1., is a relevant background in the description of future opportunities and challenges. Reference is in particular made to graph 1.

The international shipping industry is a cornerstone of the global infrastructure, as well as an enabler of further growth in the world economy. This represents great opportunities for the European maritime industry. Through exploration, production and transportation of oil, natural gas and new sources of renewable energy, our business is also essential in solving one of the most critical dominators to global prosperity - proving energy to a growing world marked. This represents opportunities for the maritime offshore sector. More and more the process of moving national and regional transport from land to sea are recognised as necessary of logistical reasons and preferable to the environment. This recognition represents opportunities for increased transport in intraregional markets.

---

\(^5\) Commission decision of 19 June 2002 on State aid implemented by the Netherlands for operations by Dutch tugboats in seaports and on inland waterways in the Community, OJ L-314/97.
Even in volatile economic times, the prospects for future growth in international shipping are amongst the most robust. Because at its roots, the international shipping industry will both be responding to emerging needs and in itself creating new opportunities for growth.

However, the opportunities described above, require a EU/EEA shipping industry that can face the strong competition from third – country registers as well as from global shipping centres particularly in Asia and the Far East, if we are to keep a European maritime sector.

In the short term, there will still be challenges for the Norwegian maritime sector as to cope with the financial and economic crisis.

For the medium and long term, it is very likely that Norwegian shipping companies will continue to operate in a global free-trade environment with few market access restrictions and with a perfect mobility of ships (making it easy to change register).

In such an environment, the Norwegian shipping industry will continue to face strong competition from third-country registers as well as from global shipping centres particularly in Asia and the Far East. Remaining competitive with these will be a major challenge for the Norwegian shipping industry in the coming years.

Third-country registers and global shipping centres are expected to remain attractive and highly competitive in the future. This competition is either based on low or no-tax jurisdictions without nationality requirements for owners, management or manning of the ship, or it is based on systems that are modelled on measures currently offered by Member States under the Maritime Guidelines (e.g. tonnage tax). In many cases, fleets in these countries enjoy active support from national governments interested in developing their maritime sector. In addition, most of these attractive and competitive third-country registers and global shipping centres respect international health, safety and environmental quality standards fully.

There will thus be continuing competition for the location of shipping and wider maritime activities. In this respect it should be noted that today Norwegian shipping companies are globalised and have offices around the world and they take – and will continue to take constantly – decisions on the best available business environment for their purposes.

The continuing international competition indicates that an economically viable Norwegian shipping sector will continue to be dependent on the possibility of using the measures currently permitted under the Maritime Guidelines in the interest of both the shipping sector itself and the wider Norwegian maritime cluster. The Maritime Guidelines should therefore be continued into the future.

Without a reaffirmation of the Maritime Guidelines, there would be a serious risk that many European, and Norwegian shipping and shipping-related activities would be relocated away from Europe. As a consequence, the sector – which is of clear European interest – would be damaged dramatically and inevitably decline again, with adverse effects on employment, the wider maritime cluster and the overall EU economy. European trade would risk becoming heavily dependent on maritime services provided by actual or potential competitors of EU Member States. Moreover, the EU/EEA would have no fleet reserve to rely upon in times of military crisis and/or peace-keeping operations. This analysis has been confirmed by the 2009 Communication “Strategic goals and recommendations for the EU’s maritime transport policy until 2018”.

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?

Yes, absolutely.

As described and documented in previous answers, i.e. B.1.1., the Maritime Guidelines have laid down the basis for a satisfactory State Aid policy for the Norwegian maritime sector, as well as the European sector. The Maritime Guidelines have been highly successful and have produced strong economic, employment and strategic-capability benefits for Norway, and for the EU. They have enabled Norwegian, and European shipping, to withstand fierce and increasingly global competition. The objectives of the current Guidelines have been met. In addition to previous answers, i.e. about the very positive effects on maritime cluster, please find below a selection of initiatives and examples clearly demonstrating that the Guidelines have laid down the basis for a Satisfactory State Aid Policy in Norway:

Maintaining and improving maritime know-how and improving safe, efficient, secure and environmentally friendly shipping: The Norwegian maritime industry has a unique ability to seek innovative solutions, driven by national consumers and a strong maritime cluster. This is confirmed by the study “Knowledge based Norway”. The Norwegian maritime cluster is known for its long term research, development and innovation. This effort has not only been related to development of optimal commercial designs, but also designs for improved safety and environmental footprint. Technologically based creative responses — the introduction of new ship types and the establishment of specialized niches — have been a common element for most of the surviving Norwegian shipping companies. It is the ability to rapid develop and adapt that has been decisive for the success of the Norwegian maritime cluster over generations, and which today is stronger than ever. The need for innovation is larger than ever. New solutions must be developed to cover an increasing need for transport and energy globally, as well as increased expectations for improved energy efficiency and environmental footprint.

The innovative capability of the Norwegian maritime cluster is not primarily due to large national investments in R&D. On the contrary the national funding in R&D is low compared to other industries or maritime industry in other countries. The Norwegian maritime cluster has a low score when ranking R&D funding. The reasons for this position are related to two main factors;

1. Presence of offensive shipowners with knowledge about future needs
2. A unique and comprehensive maritime cluster with a high level of internal trust and competence

Examples of improved designs:
- For more than 70 years development of ships designs propellers has been undertaken between the research cluster and the industry. More than 3000 ship models and 1500 propellers have been developed over the years. These are models and propellers that today are used globally. New cutting edge designs focusing on cost efficiency and energy optimization are today under production. Examples are the newest designs of STX, Ulstein, Rolls Royce and Wärtsilla – all with key R&D units in Norway. The cluster has produced advanced and energy efficiency state-of-the-art design for offshore vessels.
- The Norwegian cluster has been leading in the development of LNG engines for maritime application. The use of LNG reduces emissions of CO2 by 15-20%, NOx by 80% and emissions of SOx are eliminated. At present LNG is tested in fuel cells for marine application. The application of LNG in Norway is today seen for ferries and the offshore fleet – as well as being a highly
relevant fuel for the short sea segment. This benefits not only the efficiency and environmental footprint in Norwegian fleet but also for the European fleets.

- The most advanced floating drilling rigs have been designed and built by Aker Stord. These rigs can be applied under extreme conditions, and meet the strictest requirements for health, safety and environmental performance.

**Working Group 5:** Several shipping companies have also developed and implemented specific programmes for improvement of environmental footprint. An example is the WG5 – Working Group 5 – represented by 6 major international Norwegian shipping companies cooperating in improving their environmental footprint.

**Maritime21:** The Norwegian maritime cluster produced in 2010 a holistic research and innovation strategy for the maritime industry in Norway – Maritime21. The work was initiated by the Ministry of Trade and Industry and based on input from more than 400 maritime employees. Through Maritime21 the Norwegian maritime industry cultivates quality shipping and takes a leading role in producing solutions for a sustainable maritime future. The Maritim21 initiative aims to consolidate positions in which Norway is already at the forefront, by joining forces across the industry through a dynamic cooperation on research and innovation. Maritime21 addresses seven selected strategic areas for implementation;

1. **Knowledge Hub and infrastructure:** Norway as a global maritime knowledge hub for the international maritime industry
2. **Maritime politics and regulations:** Knowledge is required to develop the most efficient and beneficial regulations
3. **Innovation and maritime business development:** Capture and develop the best ideas and bring them rapidly into the global markets.
4. **Efficient Energy:** Ensure that the Norwegian controlled fleet is the most environmentally friendly and cost efficient in the world
5. **LNG – fuel:** Norway as a leading exporter of LNG technology and knowledge
6. **Demanding maritime operations:** Ensure Norway’s position as prime operator of demanding maritime operations, both for design, equipment, ship/vessel and operations
7. **Arctic transport and operations:** Create values of arctic areas while ensuring safety of personnel and being considerate towards the environment

**Average fleet age:** The average age of the Norwegian flagged fleet increased between 1996 and 2001 but has decreased since then to amount to 11.1 years in the beginning of 2012.

**The Global Maritime Knowledge Hub,** initiated by the Norwegian Shipowners’ Association and Oslo Maritime network in 2008, is the largest joint privately financed research and competence initiative in Norway ever. Such programs can only succeed if they have a firm research base and close relationships with the maritime industry. Thus funds need to be channeled into specialized professorships in order to create research centers working in the maritime areas. The sponsors are Norwegian shipping companies, located in Norway, as well as actors from the entire Norwegian maritime cluster. The main objectives of the project are to:

- increase the influx of talent to the industry and strengthen leading institutes
- ensure that leading institutes have sufficient focus on the maritime industry
- assist the institutes in introducing new technological and commercial models.

Based on a recent evaluation report based on OECD methodology (relevance, effect, efficiency and sustainability), the project has been very successful. So far the initiative has resulted in 20
professorships distributed between 7 colleges and Universities across Norway. The direct private funding of these professorships is currently approximately NOK 120 million. Additionally, these professorships have also initiated research projects of approximately NOK 250 million and have secured a sustainability to faculties and institutions that otherwise would be have been struggling to maintain their activities.

Furthermore, as regards competence more specifically, the “Knowledge based Norway” study confirms the common understanding in the whole maritime cluster, of the importance of practical and operational experience from working life ashore, as a critical competence for the entire cluster, including onshore industry. The netwage scheme has made it possible to employ European seafarers on a competitive level, and thus ensure spillover effects as regards their experience and competence into land based maritime industry. Both non Europeans and European seafarers are skilled and relevant in this context. However, it is our experience that, when Norwegian seafarers choose to go on land, they do so in Norway.

Protecting and promoting employment for European seafarers - Positive effects of recruitment efforts in Norway based on several national initiatives:

The foundation “Norsk Maritim Kompetanse” (“Foundation Norwegian Maritime Competence”):

The aim of the Foundation Norwegian Maritime Competence is to aid competence-building and recruitment of Norwegian seafarers. The requirement for receiving grants from the Foundation Norwegian Maritime Competence is to employ Norwegians or EEA citizens being part of a Norwegian maritime education program in training positions on board. The foundation is financed by a levy on shipowners per employee. The assets of the Foundation are administered as follows: Shipping companies receive a specific amount for every training position, including apprentices, cadets and junior officers. An approved training program must be followed. The aim of this contribution is to encourage companies to establish training positions. In addition to these grants, a part of the Foundation’s budget is reserved for projects – activities and measures – which can contribute to recruitment and interest for a career at sea, and for measures that are promoting health, environment and safety. Examples of projects funded by the Foundation are Courses for assessors and instructors, (organized by the Norwegian Maritime Officers’ Association), “Ocean Space technology” – Production of new educational material for young people which aim is to stimulate their interest for maritime technology (Norwegian University of Science and Technology) and Upgrading courses for teachers, (administered by Maritime Forum North and the University of Tromsø).

The number of training positions has nearly tripled in the period from 2004 to 2011. Please note in Norway we include apprentices, cadets and junior officers in the term “training positions”. In 2004 the number of positions was 1000, in 2011 more than 2800. Allocations in the same period increased from NOK 26 mill in 2004 to NOK 70 mill in 2011.

Based on the above description of the Foundation Norwegian Maritime Competence, is it worth highlighting that the total number of training positions increased by 180 % between 2004 and 2011 while the number of cadet positions increased by 93 % in the same period. Since the Foundation’s establishment, in 2004, in parallel with the adoption of the Guidelines in Norway, the number of training positions has nearly tripled.

The campaign “Ikkeforalle” (“Not for everyone”): As a result of the raised awareness of maritime careers, the campaign has resulted in an increase of 1060 students (junior high school and high school students in maritime colleges) in 2006 to 1446 students in 2011. This represents an increase
in the influx of maritime students by 36 % between 2006 and 2011. Intake at maritime schools increased in the same period by 36 %.

*Maritime Trainee*: By joining forces, the maritime industry offers the trainee a wider insight into the industry than what would have been possible in a single company.

**Percentage of students at maritime academies (vocational colleges and university colleges)**

GRAPH 7 Source: Foundation Norwegian Maritime Competence
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.

The objectives are still valid and they are essential to the future of Norway’s fleet, Norwegian seafarers and the Norwegian maritime cluster.

NSA believes there is no need to modify the objectives of common interest indicated in the Maritime Guidelines, nor would it be helpful to rank or weigh them. All are important.

The objectives are being met by the Norwegian shipping industry, see answer B.2.2.

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?

Reference is made to the ECSA submission.
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

Reference is made to the ECSA submission.

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?

Reference is made to the ECSA submission. For ease of reference the main message is as follows:

The Maritime Guidelines should be maintained as they are and not be used to impose stricter requirements on the industry, in terms of either working conditions or environmental aspects. Not only are they not the correct legislative mechanisms to do that, but such a move would take away the flexibility necessary to operate in international shipping markets and would potentially have the opposite effect of what was intended.

B.3.1 – B. 3.3 Application of the Maritime Guidelines. Information requested from public authorities.

Not applicable.

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)?

Yes, positive effects have been clearly demonstrated in Norway. The Maritime Guidelines have had a critical impact, in terms of the retention of Norwegian shipping business and supporting the Norwegian maritime cluster in Europe, in the face of harsh global competition. The increased value of the Norwegian flagged fleet and the safeguarding and expansion of employment opportunities for seafarers onboard and in onshore activity and operations have all been key and substantial benefits to the Norwegian economy. This shipping activity has in turn been at the heart of the wider maritime cluster, which has contributed to yet further benefits. The positive effects have been described in
answers above, ie B. 1.1 and B. 2.2. The following summary points confirm the positive effects of the Guidelines, inter alia:

- In the period 2000 – 2011, the turnover of the maritime cluster increased from 165.7 billion NOK to 384.1 billion NOK, i.e. an increase of 131.8 %. In the same period, the added value of the maritime cluster increased from 52.3 billion NOK to 132.9 billion NOK, i.e. an increase of 154.1 %.

- Approximately 100,000 people are employed in the Norwegian Maritime Cluster. There has been an increase of employment both for the shipping companies, as well as a strong increase in the maritime cluster since the present guidelines were adopted. Since 2000, the increase in employment in the cluster has been almost 40 %.

- Stability in employment of European seafarers.

- The study “Knowledge based Norway” confirms the common understanding in the whole maritime cluster, of the importance of practical and operational experience from working life ashore, as a critical competence for the entire cluster, including onshore industry. The net wage scheme has made it possible to employ European seafarers on a competitive level, and thus ensure spillover effects as regards their experience and competence into landbased maritime industry. Both non Europeans and European seafarers are skilled and relevant in this context. However, it is our experience that as generally, when Norwegian seafarers choose to go on land, they do so in Norway.

- Strong increase in number of cadets, see B.2.2.

- Strong increase in influx of students, see B.2.2.

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?

The results described under B.3.4 meet the objectives of the Guidelines and benefit the whole of the EU as well as the shipping industry. They therefore clearly constitute objectives of common interest.

Since their development in 1997, the Maritime Guidelines have succeeded in the aim of establishing a framework that enables the Norwegian and European shipping industry to compete with its global competitors. The philosophy on which the Maritime Guidelines have been established is different from that of the general rules on State aid and does not involve ‘net direct subsidy’, except in relation to training support. Indeed, the Maritime Guidelines address global competition and not competition within the internal market.

The current Maritime Guidelines should be continued for a further period in their present form and some outstanding issues should be clarified, i.e. the scope of the Guidelines and eligible (ancillary) activities, the eligibility of chartering activities and the eligibility of capital gains from shipping-related assets under the tonnage tax regime. Reference is in particular made to B.6.2, B.6.3 as well as C.1.11 and C.1.17.
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?

As explained under point B.3.5, the current Maritime Guidelines should be continued for a further period, in their present form.

It would be helpful for the interpretation of certain areas within the Guidelines to be clarified either in the text or in interpretative assurances from the Commission, for references, see last paragraph in answer above (B.3.5.).

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

Not applicable.

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.

No. For more details, reference is made to the ECSA submission.

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

The measures facilitated by the Maritime Guidelines are designed in such a way that they only provide incentives for economically viable businesses. They do not allow the granting of operating subsidies to compensate inefficiencies. For example, a loss-making shipping firm will be better off being taxed only on profits (if any) under normal company taxation, than being taxed under the tonnage tax regimes (where payments are made regardless of profit). Thus, tonnage tax systems do not prop up inefficient entities; on the contrary, they provide a clear incentive to become efficient. This meets the “no net direct subsidy” principle.

Similarly, the employment arrangements allowed aim at alleviating state impositions on the employment in question – e.g. income tax or social security payments. By their nature, these can arise only where the measures are successful – i.e. where EU nationals are employed.

Distortions of trade and competition within the EU have been kept to a minimum and individual EU shipping companies continue to compete vigorously in a free and undistorted market. Furthermore, the European Commission has monitored the application of positive measures by Member States closely, inter alia through the notification procedure.

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?
To the Norwegian Shipowners’ Association’s knowledge there are no EU Member States within the remit of the Maritime Guidelines which render one national state aid scheme more advantageous than another, precisely because of the facilitating nature of these Guidelines.

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?

The inclusion of tugboats and dredgers is appropriate, as they represent a significant part of European flags and employment. The activities covered are of high value-added.

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, cable repair vessels, diving support vessels, oil well stimulation vessels, pilot vessels, survey vessels, hydrographical surveying and construction in a marine environment, vessels providing offshore 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?

Questions B.6.2. and B.6.3. are answered together since they both relate to the scope of the Maritime Guidelines and particularly to vessels which carry out service (rather than transporting) activities at sea.

Offshore shift within the Norwegian maritime industry

Ever since the development of petroleum installations on the Norwegian shelf began during the 1970s, Norwegian maritime companies have targeted the offshore sector. Many of the traditional shipping companies and trawler companies set up offshore shipping companies, and many yards realigned their business towards the fabrication of platforms, specialist vessels and modules for the petroleum sector.

The offshore shift in the Norwegian maritime industry has therefore taken place gradually over several decades, but there is considerable evidence to suggest that this shift has accelerated over the past ten years. In the figure below, graph 10, the maritime groups (four shipping groups, four service groups, and equipment and shipyards) are ranked according to their increase in value creation over the past decade. The typical offshore groups are indicated in orange, whilst the others are indicated in blue. The figure shows that the four offshore groups have experienced the fastest growth, whilst the other six groups have experienced the lowest growth. We find the weakest development in value creation of all amongst the deep-sea shipping companies. There are at least four factors behind the offshore shift:

- Strong growth in investments on the Norwegian shelf
- Strong growth in the international market
- Weakened development and outflux in conventional shipping segments
- More demanding requirements for and a greater element of high-technology elements

As described under question B.1.1 (b), and in graph 1, the most important change in the Norwegian fleet has been in the offshore segment. Ten years ago the value of traditional shipping activities was 6 times higher than those for the offshore vessels. Today, the value is approximately equally the same. This strong development is also reflected in NSA’s present membership: more than half of NSA’s member companies are involved in offshore service activities.

Growth in value creation (%) amongst ten maritime groups in Norway from 2000-2009

Offshore groups in ORANGE, rest in BLUE

Norwegian shipping companies generate more than 80% of the Norwegian shipyard activities. As demonstrated in previous questions related to impact on maritime cluster, building of advanced offshore vessels involve deliveries from several hundred companies across the country. For more details, we refer to description of the maritime cluster under B.1.1.
Norwegian offshore service companies operate worldwide, see graph 11. The fact that every fourth offshore service vessel on the Brazilian continental shelf is an example which illustrates very well the strong international presence of the Norwegian offshore fleet. Furthermore, it clearly confirms that the offshore service vessels are subject to strong international competition.

The Maritime Guidelines have made it possible for the offshore shipping companies to stay internationally competitive while operating from Norway, and thus contributing to the offshore adventure in Norway, including strong increase in value creation and employment both in the shipping sector and the cluster.
Norwegian offshore companies are very important for the employment of European seafarers: More than 6500 Norwegian are employed onboard offshore service vessels owned by Norwegian shipping companies.

The Norwegian Shipowners’ Association is of the view that the Maritime Guidelines should not provide a definitive and exclusive list of eligible vessels, as no activities carried at sea by vessels should be excluded a priori. Rather, the general assumption should be that all vessels are eligible, if they fulfill certain criteria. It would then be up to individual Member States – under the monitoring of the European Commission – to apply them to specific situations. This has the advantage of catering for possible technological and market developments in the future – in line with the Blue Growth policy of the European Commission; it would also reflect the facilitating nature of the Guidelines.

The Norwegian Shipowners’ Association welcomed the European Commission’s decision on the Danish case, as a result of which there is, in practice, no difference between “service” and “transport” activities, thereby making service ships (e.g. cable-layers) also eligible for state aid under the Guidelines.

For purposes of legal certainty, if the European Commission decides after its review to refine the text of the Maritime Guidelines, it would be appropriate to confirm its decision on the Danish case explicitly in the text.

The rationale behind the European Commission’s decision is that the similarities between “service” and “transport” activities are very close. They are three-fold:

- Firstly, services involving cable-laying, pipe-laying, research and other specialist off-shore activity are performed by ships subject to the same operational and regulatory framework, in terms of:

  - Technical requirements: These include all relevant international instruments and regulations governing ship structure, safety, and protection of the environment, as well as classification rules;

  - Manning: These ships are manned in compliance with international legislation that also applies to merchant vessels. The seafarers employed on board these vessels are subject to the same training requirements and to the same working and living conditions, (in particular the IMO STCW convention and the ILO Maritime Labour Convention) as those employed on board traditional merchant vessels. A seafarer employed by a “transport” company will encounter no obstacle to find a new position in a “service” company, and vice-versa – indeed, often the skills required to operate a specialist ship are high-end;

  - Legal environment: Shipowners operating these vessels are subject to the same legal constraints as regards security, liability in case of accident or pollution, and competition rules.

The Norwegian Shipowners’ Association is unaware of any relevant national, European or international shipping regulations that would not apply to service vessels.

---

7 Commission decision of 13 January 2009 on State aid C 22/07 (ex. N. 43/07) as regards the extension to dredging and cable-laying activities of the regime exempting maritime transport companies from the payment of income tax and social contributions of seafarers in Denmark.
Secondly, service vessels are confronted with the same major challenges as traditional merchant ships, namely competition from international competitors. While the majority of these vessels were owned entirely in Europe, Japan and the USA some 20 years ago, they are now owned worldwide, with competitors benefiting from lower wages for crews, lower taxes, reduced maintenance programs, etc.

Without the Maritime Guidelines, non-European companies would have a considerable advantage over EU/EEA operators, as they would be in a position to offer reduced charter rates. Similarly, the competitiveness of multi-purpose vessels active in the offshore sector would be adversely affected if restrictions were placed on their use. It also goes without saying that any impact on competitiveness will have consequences on employment.

Thirdly, service vessels provide the same contribution to the fulfilment of the objectives of the Maritime Guidelines as other (merchant) vessels do. It should be stressed in particular that service activities play an important role in the development of the maritime cluster. Some of the world’s leading shipyards which specialize in high-tech service vessels, ship designers and equipment manufacturers are located in the EU. This technological lead would be challenged by growing international competition, especially from the Far East, if “service” vessels activities were to move away from Europe.

If service vessels were no longer allowed to benefit from measures under the Maritime Guidelines, investors in that sector would undoubtedly move their activities and headquarters away from the EU. This would be easier as the clients of service vessels are located all around the world. Singapore and Dubai already feature strongly as a location for owners and operators of specialized vessels.

The exclusion of service vessels from the benefits of the Maritime Guidelines would in particular have an adverse impact on European employment and on European maritime know-how. While the EU has acquired and developed widely recognised know-how in operating ships and EU/EEA seafarers are undoubtedly among the best in the world, this qualitative advantage and the employment of European seafarers cannot be maintained without the positive measures (fiscal and social) laid down in the Maritime Guidelines.

Various European shipowners operate both “transport” and “service” vessels. If measures under the Maritime Guidelines were to become applicable only to seafarers employed on board “transport” vessels, it would be impossible for these owners to place European seafarers on “service” vessels, since those seafarers would lose part of their disposable income or the shipowner would lose the wage-cost reductions associated with these seafarers. The flexibility for shipowners to crew their fleets would be severely reduced and they could be forced to dismiss EU/EEA crews and operate service vessels with non–EU/EEA crews.

The Norwegian Shipowners’ Association does not believe that the 50 % rule currently applied to tugs and dredgers has any relevance for any other type of vessels involved in specialized services or in offshore operations.

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 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?

Reference is made to the ECSA submission. For ease of reference the main summary is as follows:

Cruise ship services are as clearly “maritime transport” as any other form of transport of goods or passengers by sea. The cruise industry faces competitiveness constraints from outside the EU. The cruise industry has contributed significantly towards achieving the objectives of the 2004 Maritime Guidelines and the eligibility of cruise ships should therefore be continued.

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? What should be the definition of ancillary activities for the purpose of the application of the Maritime Guidelines?

Yes. As a general remark, the Norwegian Shipowners’ Association believes that modern transport services need to be seen as an integrated whole, in line with the stated objectives of the EU’s maritime policy of promoting integrated transport solutions.

We therefore consider that ancillary activities related to the transportation of cargo and passengers should indeed be eligible for State Aid measures such as tonnage tax under the Maritime Guidelines.

Travelers are themselves the customer and the transport package may consist not merely of transportation from port to port, but also a variety of services provided during the trip. These include the provision of sleeping accommodation and catering, but also a range of other services such as shows, dancing, cinemas, shopping, which are an important part of the passenger’s expectation when making the journey. Most of these will be included in the ticket price (for example, arranging the embarkation, or cinema and dance facilities and entertainment on board ship), while others will be charged for separately to allow passengers greater freedom of choice – examples would include communication services, bars, currency exchange, shore excursions, shopping and health & beauty.

For further details, we refer to the ECSA submission.

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?

The Norwegian Shipowners’ Association would support this proposal, but it would be important that the technical procedures for such refunding should be quite simple. Complicated rules for refunding imply cost and would be time/resource consuming for both for the administration and for the shipowners. Further, it should be left to the interested parties to decide on the type of internet facilities to be installed on board it’s ships.

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

No.
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, (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.

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.

In our opinion, based on statements given at several points of this response, it is essential to maintain the full range of measures allowed by the present Maritime Guidelines, and the current flexibility in their application. They are necessary for continued growth and strengthening of the merchant shipping industry in EU/EEA member states. They are equally necessary for freight, passenger and service shipping operations.

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

Not applicable.

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?

Not applicable for THE NORWEGIAN SHIPOWNERS’ ASSOCIATION as such.

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?

Detailed evidence of the importance, changes and success brought about by the introduction of measures under the Maritime Guidelines has been supplied in the responses to several questions under parts B and C of this questionnaire. The Norwegian Shipowners’ Association draws particular attention to previous text and graph 2 and 3 evidencing the strong increase in turnover and value added in the Norwegian maritime cluster and hence the shipping companies contribution to the Norwegian economy.

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)?

Detailed evidence of the importance, changes and success brought about by the introduction of measures under the Maritime Guidelines has been supplied in the responses to several questions under parts B and C of this questionnaire. See also C.1.4.
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.

In our view, mandatory links to the employment of EU/EEA seafarers (or a particular flag, cf. questions C.1.7 to C.1.10 below) can inhibit the success of a particular shipping operation, without necessarily achieving the benefits intended. Our position on the value of such mandatory linkage, and thus reduced flexibility, is set out clearly in questions above.

The Norwegian Shipowners’ Association acknowledges the significance national/EU employment for Member States and for the EU as a whole, but notes that the Maritime Guidelines already set out a range of objectives which have to be met for specific measures to be considered acceptable and which are heavily focused on safeguarding EU employment and building up the skills base. Individual Member States have in the past reached agreement with the Commission during the approval process on how the measures they are adopting match up to those objectives, in a way which also fits with their national arrangements.

The current review process is an opportunity to assess to what extent these objectives has been met. The Norwegian Shipowners’ Association firmly believes that the current approach has proved practical and should therefore be maintained.

Flag requirement

The same section of the Maritime Guidelines contains a flag requirement which obliges shipowners 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?

In expansion of its general principle on conditionality stated in the last question, the NSA position on the value of a flag restriction and the risks of mandatory linkage and inflexibility in this area is set out clearly under Questions B.1.1, B.1.3 and B.2.5 in particular.

As explained in question B.2.5, shipping is a uniquely global sector and always has been by the nature of its business. This means that many different aspects of a shipping operation may involve different nationalities. Flag or registration is one such aspect, albeit in some cases an important one.

There is clear evidence that a strict flag link would not have produced the successful outcome that has occurred and the revival of some fleets and seafarer complements would not have happened in those circumstances.

The present Guidelines contain a pragmatic degree of flexibility regarding the use of Member States’ flags and this should not be tightened further.

Furthermore, we would like to point out that since 2004, the EU/EEA flagged tonnage within the Norwegian tonnage tax regime has been fairly high (approximately 77 percent, varying between 74 and 82 percent).
C.1.8 If not, do you think that the flag requirement should be stricter or more flexible?

See question C.1.7.

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

Not applicable.

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.

Training of seafarers should not be restricted by eligibility conditions. It should be left to the discretion of Member States, taking into account their own education and training systems. Also the availability of space for cadets should remain flexible and not be made subject to specific conditions.

More detail is given under our answer to question B.2.6, which explains that shipping already operates against the backdrop – and within a framework – of very extensive and deeply researched international regulations covering all aspects of maritime operations, which are moreover constantly being updated. These include the onboard working and living standards for seafarers a wide range of health and safety legislation and standards of training.

States can impose stricter domestic regulations on a unilateral basis – or in case of the EU on a regional basis – as long as they entail no discrimination based on flag. However, any imposition of stricter conditions upon European shipping companies would be likely to result in their locating more of their business away from Europe in other shipping centres and/or their flagging out vessels to third-country registers, which do not impose such strict requirements, as acknowledged in the 1996 Commission Communication “Towards a new maritime strategy”.

In Norway, certain conditions apply, but they are not linked to the tonnage tax, but to the net wage system. In order to receive grants within the Norwegian system, certain terms and conditions of the arrangements must be fulfilled, such as the payment of a sum per employee per month to the expertise fund under the auspices of the Foundation Norwegian Maritime Expertise. The aim of the Foundation Norwegian Maritime Expertise is to aid competence-building and recruitment of Norwegian seafarers. The assets of the Foundation are administered as follows: Shipping companies receive a specific amount for every training position, including apprentices, cadets and junior officers. An approved training programme must be followed. The aim of this contribution is to encourage companies to establish training positions. In addition to these grants, a part of the Foundation’s budget is reserved for projects – activities and measures – which can contribute to recruitment and interest for a career at sea, and for measures that are promoting health, environment and safety.

---

8 COM(96), 81 final, 13.3.1996.
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. 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.

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?

Time chartering business model and benefits

The very nature of the maritime transport market calls for flexible and swift decision-making from shipowners. Customer demands can vary significantly over short periods of time and European shipowners have to be able to respond adequately to secure their position globally. Time chartering is one of the key mechanisms at their disposal. Indeed, by chartering a vessel, the commercial/operational control is given to the charterer for an agreed period of time, while leaving ownership and management of the vessel in the hands of the shipowner. The latter generally retains the operating costs (i.e. the crew, maintenance and repair) and the charterer covers all voyage related costs (i.e. bunkers, port charges, etc.) as well as cargo-handling costs. It should, furthermore, be noted that this mechanism is not a specific characteristic of European shipping, but is a global practice.

A number of reasons make chartering attractive to a company. Firstly, many ship owners are relatively small with 1-10 vessels and do not have the market knowledge or an organization to conclude business with the end user - the owner of the goods to be transported, and instead choose to charter the vessel out to other ship owners with a larger organization or to ship operators such as Western Bulk. There are often long chains of time charter contracts with several shipping companies involved.

Secondly, it provides a certain degree of operating flexibility. Time chartering can range from a term of years to weeks or days. It is used to respond to a surge in demand or, conversely, to return the vessels swiftly should the demand weaken. It, therefore, allows shipowners to accommodate their customers’ needs optimally. This has proven particularly useful over the last few tumultuous years. Moreover, companies may decide that in a specific economic environment, it is more convenient to pay a stable monthly hire rather than raise the considerable capital to buy another vessel. Buying vessels is often not an attractive alternative and new buildings are long-term investments, which have three to four years delivery period.

Thirdly, companies may find they have different business strengths – some focus on owning assets, whilst others have a less capital-intensive strategy and focus on operating chartered-in assets. In addition, banks financing a vessel will often require time charter contracts with fixed revenue as part of the terms for providing the financing.

In addition, the recent market downturn in shipping have caused shipyards and banks to invent new business models and take ownership in vessels and charter them out for a period in anticipation of a market recovery some years from now. There is also a market for long term time charters (5-20 years) with options for the charterer to extend the charter or to purchase the vessel during the time
charter. The charterer will have full commercial control over the vessel in this period. Having access to these time charter contracts, will for many shipping companies be a very attractive alternative to buying vessels, as the capital needed to secure such a contract is very low compared to the purchase price having to be financed for a vessel to be acquired.

Time chartering has thus enabled European shipping companies to gain market share at a fairly rapid pace. It should, however, be stressed that time chartering, as any business model, is fairly complex and involves risks for both parties. Indeed, time chartering is a clear example of a transaction governed by market forces. It is negotiated in a free market and subject to the laws of supply and demand.

*No chartering restrictions should be applied*

Consequently, the Norwegian Shipowners’ Association believes that there should be no restrictions on chartering activities in the European shipping schemes. In our opinion, such restrictions would be meaningless, and not contribute to the scope of the state aid guidelines.

We would like to emphasize that, for commercial reasons, most shipping companies are represented in other maritime hubs across the world. Often these hubs will not impose any chartering restrictions and, should an international shipping company have a strategy of increasing its amount of time-chartered vessels, it can do so regardless of any limitations in the European tonnage regimes. It will simply do so through a non-EU resident subsidiary.

Further, the direct employment ashore associated with the commercial and operational management of the vessels are at stake here, and, indirectly, the retention and attraction of shipping company headquarters. Norwegian shipowners have, over the past decades, a proven track record of excellent management and operational abilities. High-level employment and skills have thus been developed and maintained by chartering tonnage into European companies. The alternative option could push activity out of Norway (e.g. to Singapore) and lead to loss of employment and economic activity. In general, artificial restrictions on the shipping companies’ commercial room for manoeuvre will not encourage the companies to increase the employment and economic activity in Norway.

Moreover, introducing a cap to chartering in vessels will also possibly put limitations on the ability for ship owners to charter out their vessels on time charter, as the number of potential charterers is likely to be reduced. This will disturb the market place and potentially cause market inefficiencies.

Time chartered tonnage will in most cases not replace ownership of vessels. Ownership and chartering are two different things, which are not mutually exclusive, and are governed by the company’s business strategy. Chartering of vessels is a way some choose to obtain a larger fleet to meet customers’ demands and obtain economies of scale whilst maintaining a certain degree of flexibility.

We would also like to point out that time chartering does not lead to a decrease of vessels under EU/EEA flags. As provided by the requirement of the state aid guidelines related to tonnage tax, the shipowners remain under the general obligation to maintain or increase the share of their owned and/or bareboat-chartered-in fleet under EU/EEA flag.

Alternatively, Norwegian Shipowners’ Association calls on the European Commission to allow the application of a uniform ratio of 1:10 for owned or bareboat-chartered and time-chartered tonnage, without any further restrictions. For a more detailed explanation of our alternative position we refer to the ECSA submission.
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?

Not applicable.

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 charterered in ships should be assimilated to owned ships? Please justify your reply.

Yes, bareboat chartering in is in operational terms equal to owning vessels. The charterer is responsible for everything except the financing of the vessels, i.e. technical, operational, crew and commercial management rest with the charterer.

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?

This activity is no different from the viewpoint of providing jobs for crews and onshore employees than shipping activity taking place under different contract terms.

Chartering-out with crew is the standard contract term commonly used in all sectors (although this is more frequent in the bulk and tanker markets) when a shipping company is asked by a customer to provide transport services for a shorter or longer period. The shipping company retains all the normal tasks associated with the operation of the vessel. But it is of course not active in the spot market while the employment of the vessel is allocated to the charterer’s needs. The charterer tells the shipping company which cargos to load and which ports to call at. There is no difference at all – in terms of the professional skills obtained on board a ship and also of value to land-based maritime jobs – between the experience and skills gained by a crew on a chartered-out ship and ship owned/operated directly by a shipping company.

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

Yes, 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.

Not applicable.

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?

The Norwegian tonnage tax regime does not impose any restrictions on hiring vessels out on bareboat charter terms. Consequently, income from such charters will be covered by the tax exemption under the regime.

This feature of the Norwegian regime is of great importance to the entire Norwegian shipping industry. For example, for the shipping segment servicing the oil industry globally it provides the necessary flexibility to operate in an efficient and competitive manner, both from a tax and commercial perspective. We will elaborate this further below

1 The need for a flexible approach on chartering activities covered by the State Aid Guidelines

The guidelines were developed in response to the fierce competition from third country shipping centres with more favourable conditions. The main objective of the guidelines is to level the playing field and secure a strong EU shipping industry which is competitive in the global markets.

The uniquely mobile tax base of shipping enable companies to take advantage of favourable fiscal measures offered in third-countries, e.g. from global shipping centres in Asia and the Far East. These global shipping centres continue to offer an attractive and competitive framework, and generally have no restrictions on hiring vessels out on bareboat terms and on time charter terms.

Norwegian shipping companies are globalised and have subsidiaries around the world. A substantial part of their activities take place in foreign local markets, e.g. on foreign continental shelves providing specialist services to the oil- and gas industry. From this global presence it inevitably follows that future growth will take place where the most favourable business framework is offered.

The continuation of the guidelines, without restrictions, is necessary to maintain a framework that allows the adoption of competitive measures. Without this, a gradual relocation of shipping and shipping-related activities away from Europe and the EEA area would be the result.

Rather than providing subsidies the guidelines allow for the reduction of corporate taxes to zero. This is the maximum level of aid that is permitted under the guidelines. No net direct subsidies are allowed. Consequently, the tonnage tax systems introduced in the EU/EEA area provide for a reduction of corporate taxes to zero. Instead the companies pay a tonnage tax based on the net tonnage to the company.

Taxes levied on shipping operations have a significant impact on the operational cost. In order to remain competitive, shipping companies will seek location in jurisdictions where (1) sufficient fiscal incentives are offered, and (2) there is no or limited restrictions on how the operations are structured so that the tax benefits remain effective.

Thus, EEA based shipping companies need to maintain full flexibility when determining what types of charter arrangements are entered into, i.e. bareboat chartering in and out and time chartering in and out. EEA shipping companies will because of this continue to be competitive as they can operate in a fully efficient manner from a commercial perspective:
Companies servicing the oil- and gas industry operating on foreign shelves will usually separate the vessel ownership and operational activities in order to be competitive in the operating state. Chartering the vessels out on bareboat terms is therefore both a common and necessary arrangement in this segment.

For companies operating highly specialized offshore vessels, such as seismic vessels, construction vessels, well intervention vessels, cable layers, multipurpose vessels etc., it is not uncommon for commercial reasons to hire vessels in on bareboat terms or time charter terms from unrelated companies. The unrelated vessel owner provides a “standard” vessel, and the charterer adds the necessary equipment and man the vessel with marine and/or specialist crew.

In more traditional segments, such as deep sea, having access to a substantial fleet without actually having the ownership of the vessels provides the necessary flexibility to adapt to changes in the market place. Therefore, the decision to hire a vessel in on bareboat terms (or also on time charter terms) may in many cases be purely based on commercial factors. In times of financial turmoil the total fleet can more easily be downsized by redelivering vessels hired in. When markets are booming the company fleet can be increased through hiring vessels in. For a shipowning company the flexibility to charter out a vessel on bareboat terms (or time charter terms) due to changes in the market is equally important.

Companies in a start up phase, which do not yet have sufficient capital to acquire a vessel, can hire vessels in either on bareboat terms or time charter terms until the sufficient funds are established to acquire own vessels.

If the income from chartering out on bareboat terms are not fully tax exempt under EEA tonnage tax regulations, EEA based vessel owners would not be able to provide competitive charter rates compared to the rates vessel owners resident in third countries can offer, e.g. shipping centres in Asia and Far East. The result would most likely be a relocation of this activity.

For all companies engaged in shipping activities the flexibility to provide vessels directly to customers or other group companies under different charter agreements, without this increasing the operating costs (tax etc.), is a necessity.

For Norwegian shipowners servicing the oil- and gas industry maintaining this flexibility is particularly imperative to remain competitive in the country where the vessel is operating. If the company is not competitive, for instance because of higher local taxes than the competitors due to inflexibility, then the incentive scheme / tonnage tax regime in the home state will not be effective and the guidelines will forfeit their purpose.

As described above different segments utilize the flexibility from being able to bareboat vessels out in different ways. Which structure is the most efficient and competitive when operating offshore in a given country depends on the specific fact pattern and has to be determined on a case by case basis.

We will in the following try to comment on the importance of this for the offshore industry.

2 The offshore industry – service vessels

For a detailed description of the Norwegian offshore industry, see B.6.3.
Offshore service and specialist vessels generally operate in multiple jurisdictions outside the country where the group and/or vessel owner is resident. In many instances companies operating on foreign continental shelves will be liable to tax in that state, i.e. a taxable presence is created (a so called permanent establishment). The tax liability in the foreign jurisdiction generally depends on the duration of the operation and the specific tax treaty that is in place, if any. Different tax treaties have different thresholds, e.g. 30 days, 3 months, 6 months or 12 months before a taxable presence is determined.

The vessel owning and/or operating companies hiring vessels in from related or unrelated parties are generally tax exempt under the tonnage tax regimes. This is also the case for vessel owning and vessel operating companies covered by the Norwegian tonnage tax regime. Thus, it is crucial for the overall effective tax rate and the project margins to manage the tax in the operating jurisdiction, as this in practice will be where the group/company pays tax.

Therefore it is quite common to optimize the contract structure when operating on foreign continental shelves to remain competitive.

### 2.1 Impact of different operating structures

What is an efficient and competitive structure may depend on a lot of factors specific for the operation and the jurisdiction where the operation takes place, but the structuring options usually involves a split of the contract between a bareboat and a time charter. This is generally referred to as operating either under a time charter structure or a bareboat structure.

A **time charter structure** entails that it is the vessel owner that has a time charter contract/service contract directly with the end customer, e.g. an oil company. In this structure no intermediate company is introduced between the end customer and the vessel owning company. If the company becomes liable to tax in the foreign jurisdiction, because a so called permanent establishment is determined, the entire margin of the project will be subject to tax in the state of operation.

The **bareboat structure** implies that the vessel owner has an internal bareboat charter to an operating company in the group, which in its turn has the time charter with the end customer.

If the operation is taxable in the operating jurisdictions it will in most cases only be the operating company that is liable to tax in the state of operation. No tax will be levied on the net margin of the vessel owning company, whereas the net profits of the operating company is taxable. In most cases the profit margin of the vessel owning company will be substantially higher than the profit margin of
the operating company. Thus, the effective tax rate will be substantially lower under a bareboat structure where only the net profits of the operating company is taxed in the foreign jurisdiction.

In many countries the bareboat payment is not subject to withholding taxes. However, in other countries the bareboat payment is subject to withholding taxes on gross bareboat payment because the payment is considered sourced in the operating state, e.g. 10-15%. The tax treaties in place generally determine the maximum level of withholding taxes. If withholding taxes are levied this will increase the tax burden and overall effective tax rate under the structure.

As demonstrated above the effective tax rate under these two structuring options can be quite different. The actual tax treatment and tax benefits will, however, depend on the tax treaties that are in place between the jurisdiction where the vessel owning and operating company are resident and the country where the operation takes place.

The bareboat structure is as a main rule usually the most competitive way to structure offshore service and specialist activities.

2.2 **Bareboat charters – between group companies resident in different states**

To obtain a tax efficient structure it is in many cases necessary to use/set up group companies, functioning as operating companies in other parts of the world to hire the vessel out on time charter terms to the end customer. In many instances such companies are set up outside EU. This is not only done to ensure the ability to compete, but may be for commercial and liability reasons as well as a consequence of local content requirements.

From this follows that bareboat chartering out must be covered by the tonnage tax regimes regardless of whether the operating company is resident in the same jurisdiction as the vessel owning company, or in a jurisdiction outside the EEA area. Otherwise this might lead to an increase of operating cost that could ultimately lead to a relocation of the shipowner to a third country to remain competitive.

2.3 **Bareboat charters and time charters between unrelated parties**

For companies operating specialist vessels, such as seismic vessels, construction vessels, well intervention vessels, cable layers, multipurpose vessels etc., it is not uncommon to hire these vessels in on bareboat terms or time charter terms from unrelated vessel owning companies. The unrelated vessel owner provides a “standard” vessel, and the charterer adds the necessary equipment and man the vessel with marine and/or specialist crew.
Companies have different business models. In some cases the vessels are hired in on bareboat terms and the charterer provides all necessary crew and equipment for the service that will be provided to the end customer. It is also quite common, especially for smaller seismic operators and shipowners in the very advanced specialist segments to hire a part of the fleet in on time charter terms with the necessary marine crew. The charterer will add its own specialist crew and equipment.

The companies hiring these vessels out on either bareboat (or timecharter) terms are usually other shipping companies engaged in less complex offshore activities. e.g. supply, anchor handling etc. Hiring vessels out on bareboat terms for use in the more specialized segment secures an efficient utilization of the fleet and provides commercial flexibility.

If income from such charters would not be covered by the tonnage tax regimes these shipowners would have to either offer their vessels at a higher charter rate, or to relocate to third countries to be able to provide vessels at competitive rates.

3 Conclusive remarks

Chartering vessels out on bareboat terms, i.e. chartering vessels out without crew, provides both commercial and operation flexibility and will be decisive for the future location and growth of the offshore business activities.

For shipping companies operating in the offshore industry (supply, seismic surveys, anchor handling, well intervention, construction etc.) it is imperative that hiring out vessels on bareboat terms will be an eligible activity going forward;

- As described under section 2.1 and 2.2 EEA shipowners will be able to set up efficient and competitive operating structures that ensures that the tax incentives granted under the Guidelines remain effective,
- and as described in this section 2.3 it secures access to vessels at competitive rates provided by EEA-based shipowners

The combined effect maintains a competitive fiscal environment within the EU compared to the fiscal framework provided by third countries.

Singapore, already a powerful centre for shipping activities related to the oil- and gas industry, allows without restrictions the hiring of vessels out on bareboat terms. Thus, not keeping this option open within the EU/EEA, could result in a shift towards Singapore for the shipping companies servicing the oil industry.

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 bareboat chartering out?

Not applicable.

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?

The flexibility in today’s guidelines should be continued as it is.
Eligibility of revenues from pooling

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

Not applicable.

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?

In the Norwegian special tax regime for shipping the revenues of the pool manager are only eligible for tonnage tax if the pool manager is a ship owner which qualifies for the regime.

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.

The flexibility in today’s guidelines should be continued as it is.

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?

Not applicable.

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.

Not applicable.

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

Not applicable.
C.1.26 Please provide copies of the relevant legislation governing the above issues and explain in details the applicable procedure.

Not applicable.

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

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.

Not applicable.

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.

Not applicable.

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

Not applicable.

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

Not applicable.

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.

Yes, they are crucial to underpin the future employment of high-cost EU/EEA seafarers in low-cost world markets. Without them, the numbers of EU/EEA seafarers would plummet. This is valid for all types of ships, including service ships. The ability of EU fleets to compete in terms of labour costs and flexibility is crucial to the success of EU shipping and to maximising the numbers of EU/EEA seafarers and maintaining EU maritime know
how for the maritime cluster. Labour protectionist measures would have the opposite effect of what one expects from it and it will lead to less instead of more employment in the EU.

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?

Yes. The eligibility condition for seafarers and ships are sufficient and ensure compliance with the objectives of the Maritime Guidelines. For further details, reference is made to the ECSA submission.

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)? If yes, what was the amount of the aid, types of beneficiaries and eligible activities?

Not applicable.

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.

Not relevant given the answer above.

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

No. Junior officers are the senior officers of the future. If their employment and training are not underpinned in the competitive world market, as currently permitted under the Guidelines, there will be no ‘highly qualified officers’. Indeed, while the measures are required for all seafarers, it is precisely at the training and junior officer stages that the challenge of non-EU/EEA officers is strongest. Similarly, ratings also contribute necessary skills both at sea and ashore in the wider maritime cluster; and they may well go on to qualify as officers at a later stage too.

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.

Repatriation of crew is a measure still formally available, but no longer practically available as it requires more than 6 month continuous service on board. It might be useful measure if introduced on less strict terms. In other words, it has been a useful measure in the past, and may be again in the future. We do not see reasons to exclude it from the Maritime Guidelines.
F. TRAINING AID

Chapter 7 of the Maritime Guidelines allows for training aid for seafarers in addition to Article 39 of the GBER.

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?

Not relevant.

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?

Yes, this provision of the Maritime Guidelines is still very necessary.

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

No. Reference is made to ECSA submission.

G. SHORT SEA SHIPPING

Chapter 10 of the Maritime Guidelines allows for start-up aid to new or improved short sea shipping 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, 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?

Reference is made to the ECSA submission covering questions G.1.1. to G.1.4.

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

Chapter H not applicable.

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

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

Chapter I not applicable.