QUESTIONNAIRE – MARITIME STATE AID REVIEW

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
Department for Transport

Organisation represented
UK Government

Location (Country)
Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR

E-mail address
pamela.paterson@dft.gsi.gov.uk

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 documents 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.
B. GENERAL QUESTIONS

B.1 Assessment of the market/regulatory developments

UK summary:
The maritime industry is exceptionally competitive and international in nature. The industry is highly mobile – registration of ships and the operating base of shipping companies can be moved away from an EU flag state at short notice.

The growth of EU fleets since the beginning of the 21st century, aided by the provisions for support permitted under the Guidelines, has in the last couple of years been checked by the global economic crisis. This dip threatens to increase if further regulatory measures are introduced at the EU level which are not reflective of or go beyond international agreements.

The continuation of the EU Maritime State Aid Guidelines will help permit EU shipping and shipping-related activities to remain competitive through measures which mirror the conditions in international markets.

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.

Global seaborne trade (source: UNCTAD Review of Maritime Transport 2011)

- Preliminary data indicate that world seaborne trade in 2010 bounced back from the contraction of the previous year and grew by an estimated 7%, taking the total of goods loaded to 8.4 billion tons, a level surpassing the pre-crisis level reached in 2008.

- The effects of the global crisis were felt in 2009 where global traffic dipped by 4.5% on the level seen in 2008.

- Since 2006, Main dry bulks have grown in relation to the other cargo types (Oil, other dry). Main bulks are Iron ore, grain, coal, bauxite/alumina and phosphate.

- Oil traffic remained steady between 2006 and 2010. There was a small drop in 2009 but 2010 is back to 2007 levels. Most of the drop in 2009 was accounted for by other dry cargo.
Fleet *(source: UNCTAD Review of Maritime Transport 2011)*
- In January 2011, there were 103,392 seagoing commercial ships in service, with a combined tonnage of 1,396 million dwt (gross tonnage of 1,043m tonnes, *source: Clarkson Research Service*).
- Oil tankers accounted for 475 million dwt and dry bulk carriers for 532 million dwt – an annual increase of 5.5 and 16.5% respectively.
- Container ships reached 184 million dwt in January 2011, an increase of 8.7% over 2010.
- In terms of gross tonnage, the UK registered merchant fleet has generally increased since 2004. After reaching a peak in September 2011 of 18.2m tonnes, the size of the fleet has declined slightly.
- UK Ship Register was re-launched February 2007 in addition to a marketing plan, this resulted in a sharp increase in the size of the UK fleet but this growth has been checked by the global economic crisis. There have been some small fluctuations in the size of the UK fleet since July 2009. Over the last decade, the number of UK registered ships has grown by approximately 176%. In 2011, a total of 92 commercial ships over 100gt registered in the UK.

Containers *(source: UNCTAD Review of Maritime Transport 2011)*
- In early 1991, there were slightly under 7 million TEUs (twenty foot equivalent units) of containers in use for transporting seaborne trade; by January 2011, this figure had grown more than fourfold, to 29 million TEUs.
- Furthermore, the efficiency of container ships has also increased: in 1990, each container was loaded or unloaded approximately 14 times during the year.
- Thanks to more transshipment, faster ships, and improved port handling and customs clearance, this figure had gone up to about 19 port moves per container by 2010.
- None of the container terminals worldwide are in the UK, although there are a few in the EU; Rotterdam, Antwerp and Hamburg.

UK Container traffic *(source: DfT Port Freight Statistics)*
- In 2010, 8.2 million TEUs containers were handled at UK major ports. This was a 12% increase on the 7.4 million TEUs in 2009.
- However, the figure in 2009 was affected by the global economic crisis. The volume of container traffic in 2010 was down on the peak of 8.9 million TEUs in 2007.
Before 2004 container traffic in the UK had been steadily growing. Container traffic dipped in 2005 then rose sharply in 2006 and 2007 before the economic crisis hit.

The overall effect is that container traffic in the UK in 2010 is only 2.8% higher than it was in 2004 when there were 8 million TEUs.

The UK’s Department for Transport does not record or publish data for the EU/non-EU, however some Eurostat figures are quoted below.

**UK seaborne trade**
- 573 million tonnes of goods were handled at UK ports in 2004.
- This increased by 2% to 585 million tonnes in 2005, the highest annual figure on record.
- This level decreased slightly year by year until there was a big fall of 10.9% in 2009.
- UK port freight traffic recovered slightly in 2010, rising by 2.2% to 512 million tonnes.

The proportion of global seaborne trade that goes through UK ports has decreased year on year since 2005. In 2005, UK port freight traffic accounted for 8.4% of the global total, this had fallen to 6.1% by 2010. (*source: DfT Port Freight Statistics*)

**EU seaborne trade**
- The total traffic for the EU 27 was 3,641 million tonnes in 2010, up 5.7% from 2009.
- However, the amount of seaborne goods handled had dropped in 2009, suggesting the effects of the economic crisis were also felt elsewhere in the EU. 2010 traffic is only 2.0% higher than in 2004.
- Just looking at the EU 15, seaborne trade increased by 1.4% from 3,305 million tonnes in 2004 to 3,350 million tonnes in 2010. (*Source: Eurostat*)

**Sea passengers**
- In 2011, there were 21.1 million international journeys to or from the UK by ferry passengers, this is 3% lower than the 2010 figure (21.9 million) and 5.5 million (18%) lower than in 2004.
• Much, but not all, of the drop can be accounted for by the rise in passengers using the Channel Tunnel. In 2011, 18.9 million people travelled through the Channel Tunnel, 2.5 million more than in 2004.

• In 2010, 12.7 million of the 23.5 million international journeys to or from the UK by ferry passengers were on UK registered ferries, this is a 3.3% rise on 2009 but a 0.7% fall on 2008.
• The number of passengers in 2009 was affected by the global economic crisis.
• The 2010 figure is actually 10.6% lower than it was in 2004 when it was 14.2 million.

• International journeys to or from the UK by ferry passengers on UK registered ferries accounted for 1,024 million passenger-km in 2010, this was 3.5% down on 2009 and 15.6% down on 2004 when there were 1,213 passenger-km travelled.

• In 2011, there were 3 million domestic sea passenger journeys on the three major routes (between mainland Britain and Northern Ireland, the Isle of Man, and the Channel Islands), a 2% decrease compared with 2010 and 18% lower than in 2004.

• In 2010 there were 1.1 million domestic sea passenger journeys on UK registered ferries. This is 16.8% down on 2009. These passengers travelled 124 million passenger-km in 2010, down 10% from 138 million in 2009.


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

The regulatory changes since 2004 with the biggest impact have been agreed at the international level:

• Maritime Labour Convention 2006 (MLC): This Convention pulls together in the one instrument provisions “to secure the right of all seafarers to decent employment”, covering such issues as hours of work, annual leave, wages, employment agreements and employer liability. Once the MLC enters into force internationally it will help to create a more level playing-field for quality shipowners competing with sub-standard ships.

• Convention for the Prevention of Pollution from Ships (MARPOL): Annex VI of MARPOL (entitled “Prevention of Air Pollution from Ships”) entered into force in May 2005 and was subsequently strengthened in October 2008. Regulations contained in Annex VI of MARPOL set limits on sulphur oxide and nitrogen oxide emissions from ship exhausts, which could be achieved by using compliant fuel or by installing an emissions abatement technology. In 2011, the European Commission published a proposal to implement these changes into
European law, along with an assessment which indicates that the benefits (in terms of improvements to the environment and public health) would significantly outweigh the costs. The UK supports the limits under Annex VI, but is opposed to those measures in the draft Directive which go beyond the international agreement. No UK State aid is currently available for shipowners looking to install an abatement technology. Annex VI of MARPOL was also revised in 2011 to include mandatory technical and operational energy efficiency measures designed to reduce CO₂ emissions from new build ships. This latest revision will enter into force in January 2013.

Transport and competition with other modes of transport:
State aid rules for rail and roads appear to be less prescriptive than the provisions relating to aid for short sea shipping as provided for in the Maritime Guidelines. Our views are set out in more detail in section B2.4; in brief, we are concerned that the discrepancy between the different State aid rules causes unfair competition against short sea and coastal shipping operators because rail and inland waterway operators can apply and receive more than one grant for various different traffic flows.

In the UK, the biggest impact on seafarer labour costs has resulted from the Commission’s Reasoned Opinion (2006/4129) which determined that existing UK legislation was in breach of the free movement of workers with regards to differential rates of pay for seafarers. Legislation was amended and entered into force on 1st August 2011.

Less than six months after the entry into force of the legislation, we have seen two shipping companies leave the UK Register and move to non-EU Registers. The increase in labour costs is believed to have been a significant driver in the decision to move operations away from an EU flag.

Looking ahead, attempts by the European Commission to introduce further measures under the banner of an “EU maritime social agenda” risk creating an environment of uncertainty for ship operating companies. Shipping is a highly competitive and global industry and employment-related costs have a significant influence on the overall costs of operating under any particular flag. The UK believes that labour related issues are best dealt with at the international level by the International Maritime Organisation and the International Labour Organisation (e.g. the Maritime Labour Convention 2006).
(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)

Source: DfT analysis of HIS Global Data

- The UK controlled fleet totalled 7.8 million Dwt at the end of 2009 (the latest year for which we have reliable figures).
- This is up 17.2% from 6.1 million Dwt at the end of 2004.
- The rest of the Red Ensign Group (Crown Dependencies, Bermuda and other UK overseas territories) had a controlled fleet of 8.4 million Dwt in 2009, up 5.8% from the end of 2004.
- In comparison, the foreign controlled fleet increased 86% between the end of 2004 and the end of 2009, from 10.9 million Dwt to 20.3 million Dwt.

- The fleet of UK parent owned trading ships accounted for 7.2 million Dwt at the end of 2009, up 41.7% from 5.1 million Dwt at the end of 2004.
- The rest of the Red Ensign Group parent owned trading ships totalled 3.5 million Dwt at the end of 2009, this was down 34% from 5.4 million Dwt at the end of 2004.
- The foreign parent owned trading fleet was 5.8 million Dwt at the end of 2004. By the end of 2009 this was up 86% to 10.8 million Dwt.

More details on the history of reflagging these vessels can be found in the HIS Global world fleet data.

(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

Source: Chamber of Shipping Manpower Survey, June 2010, UK Chamber of Shipping

As at the end of June 2010, member companies of the UK Chamber of shipping employed the following at sea:
- UK officers: 11,700
- Other EEA officers: 4,200 (European Economic Area)
- Other nationality officers: 10,000
- UK ratings: 11,300
- Other EEA ratings: 4,700
- Other nationality: 29,500

Officers include both certificated and uncertificated officers. Ratings include both deck/engine staff and hotel/catering staff.

An analysis of global seafarer employment was published by BIMCO and ISF [https://www.bimco.org/~/media/Press/Manpower_Study_handout_2010.ashx](https://www.bimco.org/~/media/Press/Manpower_Study_handout_2010.ashx).

At end-June 2010, the UK Chamber of Shipping estimated that its members employed over 7,000 staff onshore in the UK. No nationality breakdown is available.

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

Oxford Economics, working on behalf of Maritime UK, estimated that the UK maritime services sector employed 11,100 people in the UK in 2009. No nationality breakdown was given.

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

The average number of officer cadets in training during 2010/11 was 1,820 compared with about 1,000 in 1999/2000. UK State aid has played a key role in this increase in cadet training:
- The training requirement in the UK’s tonnage tax scheme; and
- The Government’s support for maritime training (“SMarT”) scheme.

Data is provided under section B3.
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?

Not applicable.

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) State aid factors
Costs, including taxes, are the key determining factor for a shipping company in deciding where to base its operations. The tonnage tax has played a significant role in the substantial growth of the UK Ship register over the last decade. Over the same period of time a number of countries, both EU and internationally, have introduced tonnage tax schemes to similar effect. Tax relief measures are therefore a key element of the Guidelines and must continue if European fleets are to remain competitive.

(b) Other factors
The registration process plays a role in the attractiveness of a flag. The UK Ship Register is one of the best performing EU flags in the major Port State Control regime and we believe this is due in part to our registration process which was revised in 2007. For example, we offer a dedicated customer service throughout and after registration, with a customer service manager available to offer 24hour/7 days assistance.

Labour costs are a significant factor for a shipping company in deciding where to base its operations. EU labour law measures are considered by many in the maritime sector to be over protectionist with the result that EU seafarers are still unable to compete on cost factors with seafarers from developing countries.

As referred to under our answer to B1.1.e, the UK Register has in the last six months lost two shipping companies to non-EU Registers.

(c) We have no evidence to determine the best flags. In the UK we are guided by the International Chamber of Shipping’s Flag State Performance Table and the Paris MoU lists.
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?

The UK applies owner eligibility criteria which only allows companies incorporated in certain countries to register. Moving the head office of the owner to a non-eligible country could mean that the company would have to re-flag their fleet.

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

The Maritime Guidelines:
- have provided a basis for tonnage tax schemes;
- do not have an impact on ship registration processes;
- may be a deterrent to international shipping groups transferring ships to group companies based in the EU because of the flag requirements.

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 industry is exceptionally competitive and international in nature. The industry is highly mobile – registration of ships and the operating base of shipping companies can be moved away from an EU flag state at short notice. A benefit of the EU maritime State aid guidelines is that they have permitted the introduction of measures to mirror the conditions in international markets.

Key amongst these measures are:
- **Tonnage tax**: economic impact
- **Tax concessions for seafarers**: economic and social impact
- **Training support**: economic and social impact
- **Support for short sea shipping**: environmental impact

Other sectoral State aid and horizontal State aid rules focus on avoiding the distortion of the EU internal market which is not the issue here. The Maritime Guidelines are written in such a way so as to reflect the global nature of shipping, helping EU fleets to compete with international competitors.
**B2 Objectives of the Maritime Guidelines and current challenges for the maritime sector**

**UK summary:**
The Guidelines should be renewed in broadly their current form. The two key objectives in the Guidelines which remain of particular relevance today are:

- Contributing to the consolidation of the maritime cluster established in the Member States while maintaining an overall competitive fleet on world markets; and
- Maintaining and improving maritime know-how and protecting and promoting employment for European seafarers.

It is the UK’s view that the flagging rules set out in the current Guidelines risk running counter to the objectives of “encouraging the flagging or re-flagging to Member States' registers” and “consolidation of the maritime cluster established in the Member States”. There is evidence to suggest that as a result of the tonnage tax flagging requirements EU companies are deterred from acquiring additional vessels and international shipping groups are put off transferring ships to group companies based in the EU.

**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?**

**Developments**
Once the Maritime Labour Convention 2006 enters into force internationally it will help to create a more level playing-field for quality shipowners competing with sub-standard ships.

**Challenges**
On the environment side, it is clear that there is an ongoing challenge to be addressed in balancing the environment and health benefits which are expected to arise as a result of the MARPOL limits on sulphur oxide and nitrogen oxide emissions from ship exhausts and the costs to be borne by shipping companies in using compliant fuel or installing an emissions abatement technology. It is vital that in implementing these changes into European law, the Commission avoids introducing measures which go beyond those in the international agreement. No UK State aid is currently available for shipowners looking to install an abatement technology.

**Implications for Maritime Guidelines**
The rules governing State aid must acknowledge the growth and increasing interest in non-EU Registers (in particular Singapore) and the attempts being made by these registers to establish themselves as shipping hubs. A study undertaken by a Norwegian consultancy, the results of which were made
public at the end of April, concluded that Singapore is “the most important shipping centre in the world”. The Maritime Guidelines must allow for action to be taken at the national/EU level to address this increased competition.

**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?**

In recognising that State aid was required in order to enable EU shipping companies to be competitive, the Guidelines were a welcome initiative. However, the lack of clarity in the Guidelines and the case by case approach adopted by the Commission, resulting in differing procedures across the Member States, has led to uncertainty for Administrations and industry alike.

**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.**

- **Improving a safe, efficient, secure and environment friendly maritime transport** –
  This sits better in an overarching policy statement. It is not relevant to State aid.

- **Encouraging the flagging or re-flagging to Member States’ registers** –
  It is the UK’s view that the flagging rules set out in the current Guidelines risk running counter to this objective. There is evidence to suggest that as a result of the tonnage tax flagging requirements EU companies are deterred from acquiring additional vessels and international shipping groups are put off transferring ships to group companies based in the EU.

- **Contributing to the consolidation of the maritime cluster established in the Member States while maintaining an overall competitive fleet on world markets** –
  Maintaining competitiveness is absolutely crucial. Ongoing recognition at the EU level that the approval of State aid (e.g. tonnage tax) is a means to achieve this objective is vital.

- **Maintaining and improving maritime know-how and protecting and promoting employment for European seafarers** –
  Maintaining a substantial European maritime sector requires maritime skills and expertise at sea and on shore. Allowing Member States to support employment and training schemes therefore remains important. Notwithstanding, such provision should not exist to counterbalance and alleviate additional and potentially unwarranted costs arising from the EU’s proposed agenda of greater social protection measures for EU seafarers.

- **Contributing to the promotion of new services in the field of short sea shipping following the White paper on Community transport policy** -
The rationale behind this objective remains valid but we would note the discrepancy between the rules governing this support and rules pertaining to the support for rail and inland waterways transport. In order to meet the Guidelines’ aim of improving the intermodal chain and decongesting roads in Member States, this discrepancy needs to be addressed.

**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?**

**Signs of success: Addressing the decline of the EU maritime transport industry**

The dramatic drop in the size of the EU fleets, coupled with the reduction in the number of people entering the maritime industries, was cause for concern by the late 1990s.

The maritime State aid guidelines have helped to address this concern. In particular, the introduction across the EU of tonnage tax schemes has been very beneficial. In the UK, a tonnage tax was introduced in 2000 to try to revive the UK shipping industry and increase the number of UK-based seafarers. The number of UK registered ships has grown by approximately 176% in the last decade. Under the Guidelines, the UK Government has been able to provide support for cadet and ratings training. The average number of officer cadets in training during 2010/11 was 1,820 compared with about 1,000 in 1999/2000.

**Signs of failure: Aid for short sea shipping**

Conversely, the provisions in the Maritime Guidelines relating to aid to short sea shipping are, in the view of the UK Government, overly prescriptive and at odds with the guidelines governing State aid for rail and inland waterway operators. Under the Maritime Guidelines, the UK scheme (“Waterborne Freight Grant”) is restricted to providing financial support to one project per shipping line. Conversely, there is no such restriction for schemes supporting rail and inland waterways transport.

We believe this causes unfair competition against short sea and coastal shipping operators because rail and inland waterway operators can apply and receive more than one grant for various different traffic flows. This discrepancy should be addressed by the Commission.

**Signs of failure: Aid for essential ferry services**

Neither the Maritime Guidelines nor the Maritime Cabotage Regulation guidelines sufficiently recognise the specifics of certain ferry services, in particular those serving remote island communities. Such services provide a social function and there is a very limited market for the provision of these
services. The rules governing public service contracts for ferries, limiting the duration of such contracts to a maximum of six years, have not brought about service improvements nor have they led to the need for reduced subsidies. The rules differ significantly from those governing public sector contracts in other transport modes (for example, rail companies investing in new rolling stock can be awarded contracts up to 15 years; bus services can be awarded 10-15 year contracts).

We would propose a similar provision for ferry services - a maximum contract length of 15 years, plus 50% in case of significant investment in new assets - would encourage innovation and reduce Government expenditure. In turn, this would enhance maritime know-how by encouraging innovative ship design and investment (in monetary terms and employment) in this sector. Corrective action by the Commission is required here.

**Most effective way to address market failures**

The economic climate faced by the shipping industry means that it is an industry that clearly benefits from properly targeted State aid. It is important that the guidelines governing such State aid are clear, consistent and offer stability to the shipping industry. The increasing globalisation of the shipping industry needs to be reflected in the Guidelines so as to avoid any new market distortions which could impact the now internationally competitive EU maritime sector.

**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.**

From a marketing point of view, and in particular for cruise ships and ferries, there may be a commercial advantage to flagging-in under an EU flag.

Conversely, it could be argued that there is a commercial disadvantage to flagging-in under an EU flag due to the higher social protection afforded to seafarers working on EU/EEA flagged vessels.

**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?**

Allowing Member States to support employment and training schemes remains important. Notwithstanding, such State aid measures should not exist to counterbalance and alleviate additional and potentially unwarranted costs arising from the EU's proposed agenda of greater social protection measures for EU seafarers.

The EU must continue to recognise the global nature of shipping, with enhanced cooperation between the EU and the International Maritime Organization on seafarer-related issues.
B3 Application of the Maritime Guidelines

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

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

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

Tonnage Tax

The table below provides estimates of the difference between accruals of tax liabilities for the UK Shipping Industry through tonnage tax and what they would otherwise have been under standard UK Corporation Tax since 2004.

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Reduction In Tax Liabilities (£m)</th>
<th>Reduction In Tax Liabilities (€m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>54.4</td>
<td>80.1</td>
</tr>
<tr>
<td>2005</td>
<td>57.3</td>
<td>83.8</td>
</tr>
<tr>
<td>2006</td>
<td>50.0</td>
<td>73.3</td>
</tr>
<tr>
<td>2007</td>
<td>70.9</td>
<td>103.6</td>
</tr>
<tr>
<td>2008</td>
<td>132.6</td>
<td>166.9</td>
</tr>
<tr>
<td>2009</td>
<td>45.9</td>
<td>51.5</td>
</tr>
</tbody>
</table>

Estimates are not yet available for 2010 or 2011, as records may be incomplete due to some tax returns not yet being submitted. The series has been produced using a new modelling approach which assumes that without the introduction of Tonnage Tax in 2000, the level of affected UK shipping activities would have declined over time until reaching half that of the 1999 level by 2008. Average calendar year exchange rates have been taken from the HMRC website: http://www.hmrc.gov.uk/exrate/yearly_rates.htm

The table below presents the number of company groups that were part of the tonnage tax regime in each year since 2004.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of groups</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>68</td>
</tr>
<tr>
<td>2005</td>
<td>72</td>
</tr>
<tr>
<td>2006</td>
<td>71</td>
</tr>
<tr>
<td>2007</td>
<td>75</td>
</tr>
<tr>
<td>2008</td>
<td>78</td>
</tr>
<tr>
<td>2009</td>
<td>82</td>
</tr>
</tbody>
</table>

Estimates are not yet available for 2010 or 2011, as records may be incomplete due some tax returns not yet being submitted. Numbers are based on HMRC data available on groups in the tonnage tax regime.
Coverage of labour related costs for seafarers

For strategic national security reasons a personal tax relief is provided to seafarers that are resident for UK tax purposes. For information, the amount of relief provided is detailed below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount of tax relief (£m)</th>
<th>Amount of tax relief (€m)</th>
<th>Number of recipients</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003/04</td>
<td>100</td>
<td>144</td>
<td>19,600</td>
</tr>
<tr>
<td>2004/05</td>
<td>100</td>
<td>147</td>
<td>18,600</td>
</tr>
<tr>
<td>2005/06</td>
<td>100</td>
<td>147</td>
<td>18,000</td>
</tr>
<tr>
<td>2006/05</td>
<td>90</td>
<td>133</td>
<td>18,100</td>
</tr>
<tr>
<td>2007/08</td>
<td>170</td>
<td>241</td>
<td>16,300</td>
</tr>
<tr>
<td>2008/09</td>
<td>160</td>
<td>193</td>
<td>16,900</td>
</tr>
<tr>
<td>2009/10</td>
<td>170</td>
<td>192</td>
<td>16,600</td>
</tr>
<tr>
<td>2010/11</td>
<td>180</td>
<td>212</td>
<td>17,700</td>
</tr>
<tr>
<td>2011/12</td>
<td>190</td>
<td>220</td>
<td>*</td>
</tr>
</tbody>
</table>

Average calendar year exchange rates have been taken from the HMRC website: [http://www.hmrc.gov.uk/exrate/yearly_rates.htm](http://www.hmrc.gov.uk/exrate/yearly_rates.htm)

* The number of recipients for 2011/12 is not yet available, as they are captured on the completed Self-Assessment forms.

Crew relief aid

The Crew Relief Costs Scheme (CRCS) operated under powers in section 76 of the Merchant Shipping Act 1995 (previously section 27 of the Merchant Shipping Act 1988).

Owners and managers of ships registered in the UK, Isle of Man or Channel Islands were eligible for the scheme, provided they were either an individual ordinarily resident in the UK, Isle of Man or Channel Islands; or a body corporate which incorporated in the UK, Isle of Man or Channel Islands, and which had its principal place of business there.

Crew had to be employed in deck, engineer or catering grades only on ships registered in the UK, Isle of Man or Channel Islands, and seafarers for whom assistance was claimed had to be ordinarily resident in the UK, the Isle of Man or Channel Islands. Crew changes had to take place outside the Limited European Trading Area.

The CRCS ceased on 8 March 2011. However, under the Merchant Shipping Act, the power still exists for the Secretary of State for Transport, with the consent of the Treasury, to provide financial assistance in respect of travel and other costs in exceptional cases. No such payments have been made.

Grants paid under the CRCS in the years 2004 to 2011 are as in the following table:
<table>
<thead>
<tr>
<th>Year</th>
<th>Grant Paid £</th>
<th>Grant Paid €</th>
<th>Beneficiaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>£1,496,998.76</td>
<td>€2,206,576.2</td>
<td>Shipowners/ship managers</td>
</tr>
<tr>
<td>2005</td>
<td>£1,528,367.37</td>
<td>€2,235,390.1</td>
<td>29</td>
</tr>
<tr>
<td>2006</td>
<td>£1,179,367.57</td>
<td>€1,729,660.5</td>
<td>27</td>
</tr>
<tr>
<td>2007</td>
<td>£1,265,412.77</td>
<td>€1,848,008.8</td>
<td>24</td>
</tr>
<tr>
<td>2008</td>
<td>£1,473,641.54</td>
<td>€1,854,725.1</td>
<td>20</td>
</tr>
<tr>
<td>2009</td>
<td>£1,636,361.76</td>
<td>€1,838,452.4</td>
<td>18</td>
</tr>
<tr>
<td>2010</td>
<td>£1,294,151.50</td>
<td>€1,509,498.3</td>
<td>19</td>
</tr>
<tr>
<td>2011*</td>
<td>£400,844.43</td>
<td>€461,652.93</td>
<td>12</td>
</tr>
</tbody>
</table>

* Figures given for 2011 are up to the abolition of the scheme in March that year
† Entries in this column are in respect of a sailing trust
Average calendar year exchange rates have been taken from the HMRC website: http://www.hmrc.gov.uk/exrate/yearly_rates.htm

Training aid

The Government’s Support for Maritime Training (SMarT) scheme has been running since April 1998 and supports courses approved by the Merchant Navy Training Board (MNTB) and the Maritime and Coastguard Agency (MCA) for the training of officers and ratings.

In its 2004 clearance of SMarT, the European Commission noted the rationale for the scheme as addressing:

- the continuing shortfall in officer recruitment;
- a falling proportion of cadets continuing to second certificate training;
- a reported high drop-out rate during officer training (as much as 25%);
- the above average age profile amongst the UK officer population;
- low numbers of ratings progressing to officer qualifications;
- increasing demand for highly skilled ratings; and
- declining opportunities for unskilled ratings.

An independent review of the scheme was undertaken in 2011 as part of the Government’s spending review towards meeting the deficit reduction facing the UK.

The outcome of the review was announced on 23rd January 2012 stating that a budget of £12million a year for the SMarT scheme will be provided by Government for the remainder of this Parliament (i.e. up to and including 2014-15).

In view of the forecast national shortage of trained seafarers, the majority of the budget will be focussed on supporting initial training for cadets studying at junior officer level with the remainder supporting ratings training and ratings to officer conversion training.

The table below shows how much money was given under this approved State aid. The Grant is paid to training providers based on the number of
trainees eligible for them to claim for. The number of training providers in the system has changed over the years but it currently stands at 26. The grant money is only recorded according to financial year rather than calendar year. There has been a shift in the past few years from funding shore based short courses improving or updating skills to the more expensive funding of training for cadets studying at junior officer level including the Foundation degree course.

<table>
<thead>
<tr>
<th>Year</th>
<th>Grant Paid £</th>
<th>Grant Paid €</th>
<th>Total No of Trainees claimed for</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003/04</td>
<td>£8,647,410</td>
<td>€12,452,270</td>
<td>5,994</td>
</tr>
<tr>
<td>2004/05</td>
<td>£8,914,440</td>
<td>€13,077,483</td>
<td>4,600</td>
</tr>
<tr>
<td>2005/06</td>
<td>£9,339,825</td>
<td>€13,695,919</td>
<td>3,820</td>
</tr>
<tr>
<td>2006/07</td>
<td>£9,686,424</td>
<td>€14,287,475</td>
<td>4,315</td>
</tr>
<tr>
<td>2007/08</td>
<td>£10,632,375</td>
<td>€15,074,581</td>
<td>3,760</td>
</tr>
<tr>
<td>2008/09</td>
<td>£12,089,021</td>
<td>€14,557,599</td>
<td>3,256</td>
</tr>
<tr>
<td>2009/10</td>
<td>£14,055,305</td>
<td>€12,440,491</td>
<td>3,673</td>
</tr>
<tr>
<td>2010/11</td>
<td>£14,927,531</td>
<td>€17,583,437</td>
<td>3,944</td>
</tr>
<tr>
<td>2011/12</td>
<td>£11,999,999</td>
<td>€13,898,806</td>
<td>4,838</td>
</tr>
</tbody>
</table>

Average calendar year exchange rates have been taken from the HMRC website: http://www.hmrc.gov.uk/exrate/yearly_rates.htm

Aid for short sea shipping

The Waterborne Freight Grant (WFG) scheme assists companies with the operating costs, for up to three years, associated with running water freight transport instead of road (where water is more expensive than road).

Any grant offered will be limited to the lower of:

- The value of the Environmental Benefits generated by transferring the relevant freight from road to water; or
- The financial need for grant determined by a financial appraisal comparing the costs of transporting freight by water with the costs of the road alternative; or
- 30% of the total operating costs of the water movement of the relevant freight; or
- € 2,000,000.

<table>
<thead>
<tr>
<th>Year</th>
<th>Grant Paid £</th>
<th>Grant Paid €</th>
<th>Beneficiaries</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Shipping line</td>
</tr>
<tr>
<td>2005</td>
<td>£578,960</td>
<td>€846,787</td>
<td>Superfast Ferries</td>
</tr>
<tr>
<td>2006</td>
<td></td>
<td>€2M (awarded in 2006 but paid over 3 years)</td>
<td>Norfolk Line</td>
</tr>
<tr>
<td>2010</td>
<td>£791,927</td>
<td>€923,707</td>
<td>Logical Link</td>
</tr>
</tbody>
</table>

(awarded in 2006 but payable over 3 years)

Average calendar year exchange rates have been taken from the HMRC website: http://www.hmrc.gov.uk/exrate/yearly_rates.htm
Compensation for imposed Public Service Obligations and signed Public Service Contracts

All aid below is provided by the Scottish Government to support essential ferry services in accordance with paragraph 9 of the Maritime State Aid Guidelines ("Public Service Obligations and Contracts").

Seven companies have benefitted from the State aid set out above during the period in question through contracts with the Scottish Government. The current recipients of aid are:

- CalMac Ferries Ltd
- NorthLink Ferries Ltd
- Argyll Ferries Ltd
- Shetland Line (1984) Ltd

None of these companies are “shipowners”; all are ferry operators and none currently own any of the ships that they operate.

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>State Aid (£)</th>
<th>State Aid (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004/05</td>
<td>£46.5m</td>
<td>€68.2m</td>
</tr>
<tr>
<td>2005/06</td>
<td>£54m</td>
<td>€79.2m</td>
</tr>
<tr>
<td>2006/07</td>
<td>£67.6m</td>
<td>€99.7m</td>
</tr>
<tr>
<td>2007/08</td>
<td>£71.2m</td>
<td>€100.9m</td>
</tr>
<tr>
<td>2008/09</td>
<td>£84.2m</td>
<td>€101.4m</td>
</tr>
<tr>
<td>2009/10</td>
<td>£98.1m</td>
<td>€110.8m</td>
</tr>
<tr>
<td>2010/11</td>
<td>£101.6m</td>
<td>€119.7m</td>
</tr>
<tr>
<td>2011/12</td>
<td>£118.1m</td>
<td>€136.8m</td>
</tr>
</tbody>
</table>

B3.3 In general terms, what is your experience with the application of the Guidelines? Do you consider that the guidelines have had an impact on the EU flag (preventing out-flagging to third countries) and on EU employment of seafarers or various types of investments (training, communication on board, etc.)? Please provide relevant data, if available.

Probably the main factor behind the growth of the UK Register has been the Tonnage Tax scheme, introduced in 2000. The scheme brings certainty and clarity to shipping companies about tax liabilities. The UK Government’s support for maritime training over the lifetime of the Guidelines has also had a positive impact. Data is set out in answer to B 3.4(b) below.

B3.4 What are the positive/negative impacts of this aid?

(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.)?

Not applicable
(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?

In 2011, an estimated 27,000 UK nationals were working regularly at sea. This number is about 5% higher than in 2002, the earliest year for which estimates are available for all groups.

The average number of officer cadets in training during 2010/11 was 1,820 compared with about 1,000 in 1999/2000.

The UK’s tonnage tax scheme requires each shipping company to recruit and train one officer trainee each year for every 15 officer posts in its fleet, and to give consideration to employment and training opportunities for ratings. Trainees must be UK or EEA nationals.

An independent review of the UK’s SMarT scheme in 2011 estimated that in addition to those cadets undergoing training as a result of the tonnage tax requirements, there were an additional 200 cadets introduced annually into the industry. This is believed to be as a result of the UK SMarT scheme. To be eligible for SMarT funding, a cadet must be a UK or EEA national.

(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?

The independent review of SMarT, carried out in 2011, concluded that there was evidence from a wide range of stakeholders that SMarT has been an effective mechanism in promoting the competitiveness of the UK maritime sector. Evidence collated during the review suggested that SMarT has been instrumental in raising cadet numbers against a counterfactual and has ensured there is a ready supply of trained seafarers that can work at sea and then return to the maritime cluster onshore.

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

Qualifications undertaken by cadets are the same regardless of any Government financial support. But with the increase in the number of shipping companies and the provision of Government financial support we have seen an increased level of interest in maritime careers and an increased uptake in training.
(g) Does it have positive or negative direct or indirect effects on other aspects of Member States’ economic activity (regional, wider maritime cluster, etc)?

The UK Government is of the view that the EU Maritime State Aid Guidelines are helpful in retaining the continuing attractiveness of doing business in the EU. The provisions permitted under the Guidelines have allowed the shipping industry in the UK to make a significant contribution to the Government’s growth and skills agendas.

In May 2011, Oxford Economics produced a report for Maritime UK which estimated that the UK maritime services sector creates 227,000 jobs or 0.8% of total UK employment. On this basis, Oxford Economics estimated that the maritime services sector made a direct £13.1 billion value-added contribution to GDP or 0.9% of the UK total.

B3.5 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 Guidelines should be renewed in broadly their current form but amended so as to provide clarity, consistency and stability.

Over the course of the Guidelines’ operation questions have arisen around the merits in favour of including the types of vessel referenced in questions B.6.1 to B.6.3. The UK believes that this raises a wider question about what constitutes “maritime transport”.

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?

The underlying principle behind the Maritime Guidelines should continue to be the advancement of a joint Community interest in preserving the economic benefits of an EU based shipping industry. Within the flexibilities granted to Member States to adopt different approaches there should continue to be the stipulation that aid is provided at a parity level between Member States.

The UK’s view is that the flagging rules set out in the current Guidelines risk running counter to the objective of “encouraging the flagging or re-flagging to Member States’ registers”. There is evidence to suggest as a result of the tonnage tax flagging requirements that EU companies are deterred from acquiring additional vessels and international shipping groups are put off transferring ships to group companies based in the EU. This is as a consequence of the requirements in paragraph 8 of the Guidelines to increase, or at least maintain the proportion of Community flagged vessels according to shipping company holdings on entry to tonnage tax. The “at least” requirement of maintenance of Community flag share for a low
proportion entrant carries less obligation than for a high proportion entrant and is patently unfair.

As observed in answer to B 2.2 and B 6.7, the case by case approach adopted by the Commission has led to uncertainty for Administrations and industry alike. The Guidelines need to re-establish a common understanding of the boundaries to State aid. In particular, the UK believes that there is an opportunity to impart a wider, more inclusive meaning to what constitutes “maritime transport”. Some vessels managed within the EU based shipping industry are not engaged solely in transport functions, but are engaged in the provision of services at sea – this includes the types of vessel referenced in B 6.2 and B 6.3. The management of these vessels offers no less economic benefit to the Community than that attached to the management of vessels designed for the transportation of goods and passengers.

An important feature of the current Maritime Guidelines is the recognition that Community managed fleets may include non-Community flagged vessels, for example, as capacity is flexibly brought in by a tonnage tax company to meet business demand. There should continue to be a test to ensure that there is a realisation of economic benefit. However the UK’s experience is that the existing stipulation, that strategic and commercial management must be demonstrated within a Member State’s territory, causes problems of interpretation owing to the internationally dispersed nature of commercial decision making within shipping companies.

In light of our experience with the existing stipulation we believe consideration should be given to recasting the strategic and commercial management test. Our suggestion is that revised Guidelines should accept the Community based committal and managerial execution of fleet strategy decisions as the basis of the economic value to the Community market. This would recognise that global shipping companies' management of their Community fleets can require commercial inputs and strategic steers from business components around the world, but ensure that binding decisions to change the shape and usage of the Community fleet are demonstrably committed to and delivered from a Community headquartered base.

The UK has enjoyed a strong position as a management location of choice for cruise ship operators. Many cruise ships are EU built, EU flagged and employ a much higher proportion of seafarers from EU Member States than other sectors, contributing to one of the key objectives of the Guidelines, namely “maintaining and improving maritime know-how and protecting and promoting employment for European seafarers”. As outlined in response to C.1.21 and C.1.23, the ideal is that the Guidelines should be inclusive of all business models that support the maritime cluster. Although there should be a principled guarding against any intention of shipping interests to unfairly compete against land based enterprises, the Guidelines should expressly accept that activities on board cruise ships are an intrinsic part of the cruise experience and therefore a fundamental part of these tonnage tax companies’ profit centre.
Ferry operators compete with other transport modes, primarily air travel but in the UK’s case also including the Channel Tunnel, and need to maximise the revenue opportunity of onboard sales in order to compete effectively.

Ferry operators have a requirement to maximise onboard revenue opportunities in order to compete effectively with other, faster, transport modes. It would be unfair though if the Guidelines granted a competitive advantage to shipping companies over land based enterprises’ sales. However, we argue that a distinction should be made between onboard sales and the paid for entertainments that are incidentally available during the course of the transport journey, that may including gambling. Eligibility for tonnage tax for rent earned from the letting of commercial space and the treatment of gambling profits would appear appropriate within well-defined circumstances.

**B4 Aid granted to maritime transport companies under other State Aid instruments**

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

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

(b) Please indicate the %age of aid granted respectively for shipping companies under the Maritime Guidelines and under horizontal State aid instruments, specifying the legal basis, between 2004 – December 2011, on a yearly basis.

Aid is provided by the Scottish Government to support essential ferry services in accordance with paragraph 9 of the Maritime State Aid Guidelines (“Public Service Obligations and Contracts”) but principally in line with the provisions of the Maritime Cabotage Regulation (3577/92) and Guidelines. For these purposes, the Maritime State Aid Guidelines do not appear to add any particular value as they merely cross refer to the Regulation and repeat some of the provisions of the associated Guidelines.

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>State Aid (£)</th>
<th>State Aid (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004/05</td>
<td>£46.5m</td>
<td>€68.2m</td>
</tr>
<tr>
<td>2005/06</td>
<td>£54m</td>
<td>€79.2m</td>
</tr>
<tr>
<td>2006/07</td>
<td>£67.6m</td>
<td>€99.7m</td>
</tr>
<tr>
<td>2007/08</td>
<td>£71.2m</td>
<td>€100.9m</td>
</tr>
<tr>
<td>2008/09</td>
<td>£84.2m</td>
<td>€101.4m</td>
</tr>
<tr>
<td>2009/10</td>
<td>£98.1m</td>
<td>€110.8m</td>
</tr>
<tr>
<td>2010/11</td>
<td>£101.6m</td>
<td>€119.7m</td>
</tr>
<tr>
<td>2011/12</td>
<td>£118.1m</td>
<td>€136.8m</td>
</tr>
</tbody>
</table>

Average calendar year exchange rates have been taken from the HMRC website: [http://www.hmrc.gov.uk/exrate/yearly_rates.htm](http://www.hmrc.gov.uk/exrate/yearly_rates.htm)

See section B 3.1-3.2 for more details.
B5 Undue distortion of competition within the EU

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

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

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

We are not aware of any perceived distortions.

We would note, however, that the Commission’s tendency to give clearance to specific types of aid on a case-by-case basis is potentially harmful, leading to different application and interpretation across Member States. This lack of transparency and consistency should be avoided.
B6 Scope of the Maritime Guidelines and eligible activities

UK summary:
Maritime State Aid Guidelines must provide clarity, consistency and stability. In delivering this, several factors must be addressed:
- Implementation of the Guidelines
- Definition of “maritime transport”
  - Specialist vessels (e.g. cable-layers, dredgers, drill ships, heavy lifting vessels)
  - Cruise ships
- Onboard sales and onboard gambling; and
- Flagging rules

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?

Yes, however the rule on the percentage of time spent at sea is an onerous monitoring requirement for Member States and participating tonnage tax companies. It is a reasonable intention to preserve a boundary between the aid provided toward internationally mobile shipping vessels, and the vessels engaged in inshore work which need not benefit. The UK believes that a more practical test is provided through the certification linked assignment of vessel class by the Recognised Classification Societies. The assignment of class indicates the design capabilities of a vessel, including sea voyage capabilities.

B6.2 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?

As indicated in the answer to B 3.6, the UK believes that these types of vessel merit inclusion within the scope of the Maritime Guidelines.
B6.3 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?

As indicated in the answer to B 3.6, the UK believes that these types of vessel merit inclusion within the scope of the Maritime Guidelines.

B6.4 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?

As detailed in response to B 3.6, the services on board cruise ships are an intrinsic part of the cruise experience. The object behind the operation of these vessels is not the transportation of passengers, but to offer the vessels as a destination in and of themselves. The services offered on board are analogous to land based holiday destinations. The question of which services are additionally billed is a purely commercial matter, which may vary between companies according to different business models. The ideal is that so long as a business model supports the maritime cluster it should be within the spirit of the Guidelines.

B6.5 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?

The response to B 3.6 offers the opinion that entertainments that are incidentally available during the course of a transportation journey should be within scope of tonnage tax aid. Journeys to which the provision of gambling is the primary purpose should not be within scope.
B6.6 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?

This is a commercial decision for shipowners. The UK does not believe it appropriate to provide State aid in this regard.

B6.7 Do you have any other comments concerning the scope of the Maritime Guidelines?

It has become evident that the Commission has favoured a case by case approach to the application of the Guidelines. This includes the Commission displaying inconsistent or contradictory interpretations of how different components of a shipping operation should be treated for tonnage tax purposes. This risks causing competition between Member States as well as uncertainty for industry. A preferable approach would be a clearer set of guidelines and, as a minimum, a communication to all Member States when a decision is taken on a country specific case.
C. TONNAGE TAX AND OTHER FISCAL MEASURES

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.

The UK agrees with the Maritime Guidelines’ principled proposition that operating aid should be exceptional, temporary, and digressive, but also recognises that the Guidelines have helped to embed fiscal measures as a cornerstone of internationally competitive status.

Tonnage Tax
As indicated in the response to B.2.4, tonnage tax has been instrumental in the revival of the UK shipping industry. Having helped to safeguard a competitive position in the international marketplace, the emphasis of fiscal measures could now logically shift to the retention of the established Community based maritime cluster. Such an approach would not bear any distinction between freight and passenger transportation.

Accelerated depreciation on investment in ships
The UK does not offer a special aid of this type to shipping companies that are in tonnage tax. UK tonnage tax features a general exclusion of capital allowances in respect of expenditure on assets used for tonnage tax activities.

Normal capital allowances rules apply to expenditure originally incurred outside of the tonnage tax ring fence. Expenditure originating outside of the ring fence may attract a later balancing charge on the excess of proceeds from asset disposal, subject to the use of deferral against new expenditure. See the response to C.1.24.

Tax free reservation of profits on the sale of ships for reinvestment in ships
The UK does not offer a special aid of this type to shipping companies that are in tonnage tax. UK tonnage tax features a general exclusion of reliefs, deductions and set-offs against profits.

The UK offers a Business Asset Rollover Relief within its normal Corporation Tax and Personal Tax capital gains rules. This relief can be applied to a broad range of assets, including ships, although in order to qualify all such assets must be outside of the tonnage tax ring fence. Rollover relief is a standard feature of capital gains tax regimes around the world.

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

As indicated, the UK operates a tonnage tax and allows accelerated depreciation on investment in ships, but does not allow the tax-free reservation of ship sale profits for investment in ships within the tonnage tax ring fence.
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.

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

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

The application of tonnage tax under the Maritime Guidelines is in the common interest of the Community, as expressed by Article 107(3)(c) of the Treaty, and has provided the necessary pillar of support to maintain a mass of clustered support services within the orbit of Community based tonnage tax companies. For example, London is an acknowledged leader in the international ship brokerage industry.

While it is not possible to quantify the possible effects of an absence of an approved State aid, it is highly probable that had it not existed the Community market would have suffered an erosion in the service industries that normally cluster around shipping companies.

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.

We believe that such a conditionality runs counter to the objectives indicated in the Guidelines, in particular “keeping EU fleets competitive”.

The UK tonnage tax scheme includes a minimum training obligation. This has led to an increase in the number of qualified EU seafarers, maintaining and enhancing maritime skills in the EU. The trained seafarers are then able to compete for work on the basis of their skills and expertise rather than their nationality. To impose an employment obligation would reduce a shipowner’s flexibility in manning its crew and runs the real risk of making EU fleets less competitive and EU flags less attractive.

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

No.
C.1.8 If not, do you think that the flag requirement should be stricter or more flexible?

The flag requirement should be more flexible. It is the UK’s view that the flagging rules set out in the current Guidelines risk running counter to the objective of “encouraging the flagging or re-flagging to Member States’ registers”. There is evidence to suggest that under the tonnage tax scheme EU companies are deterred from acquiring additional vessels and international shipping groups are put off transferring ships to group companies based in the EU as a direct consequence of the period requirement to acquire EU-flagged ships only.

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

Appropriate compliance activity is undertaken to help monitor the implementation of this requirement. There is also an annual exercise that monitors the increase/decrease in the proportion of EU flagged ships in the UK tonnage tax regime.

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.

As indicated in response to C.1.8 above, we would question the relevance of the flagging requirement and as a minimum would call for this requirement to be made more flexible.

A key feature of the UK tonnage tax scheme, unique in the EU, is the minimum training obligation. This requires each shipping company to provide training for one officer trainee each year for every 15 officer posts in its fleet. The training obligation can be fulfilled through the sponsorship of a cadet and is not subject to numbers of cadet berths on individual ships.

Approved core training commitments for the 2011-12 training commitment year are for around 600 new first year officer trainees. Company groups are additionally required to provide second and third year training for trainees taken on during the previous two years when they were in the tonnage tax, so the cumulative training commitment for 2011-12 is for around 1,800 officer trainees.
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?

Chartering in with crew meets the objective of “maintaining and improving maritime know-how and protecting and promoting employment for European seafarers”. This is because the commercial and operational management of these vessels has a direct effect on onshore employment in the EU, allowing for the development and retention of maritime skills.

To maintain the attractiveness and competitiveness of the EU, it is vital that the flexibility afforded through chartering is recognised. If not, there is a high probability that shipping companies will move business outside of Europe, e.g. to Singapore.

The current cap would appear to be appropriate although it would be helpful if the Commission could clarify further the strict conditions which could apply to a 90% cap.

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?

It is a requirement of entering or remaining within tonnage tax that no more than 75% of the tonnage operated by a company or group is chartered-in otherwise than on bareboat charter terms. In practice this test is applied by comparing:

- the total tonnage of qualifying ships ‘chartered-in’ across the ring fence; and
- the total tonnage of the qualifying ships operated by the group.

For this purpose bareboat charters, and charters between tonnage tax companies in the same group, are ignored. If the 75% limit is exceeded at the time of an initial election into tonnage tax, the election may be invalidated, or the date it comes into effect may be deferred. If the 75% limit is exceeded in two consecutive accounting periods after entry, the company or group may be excluded from the tonnage tax regime.

Sufficient compliance activity is taken to monitor compliance through the application of an annual risk-based assessment.

The UK tonnage system uses a test of strategic and commercial management in the UK. Flagging is not a condition for a qualifying ship for years that are excepted. However, if a year is not an “excepted year” (a year where the overall proportion of ships in tonnage tax flagged in Member States has not decreased based upon the average over a rolling three year period), then where a ship is flagged can affect whether or not it is a qualifying ship for
tonnage tax purposes if the ship is being operated by the company for the first time.

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

We agree that bareboat chartered in ships are equivalent to owned ships for tonnage tax purposes. Tonnage tax is a regime for ship-operating companies. Where a shipping company owns or bareboat charters-in its ships it has full control over them, including the right to appoint the crew, and thus train its own cadets.

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

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

Yes. A ship operator has to satisfy HMRC that his ships are commercially managed in the UK otherwise they cannot be included in UK tonnage tax.

**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.**

Yes, as per the following legislation:

**Finance Act 2000/Schedule 22/Paragraph37**

(1) It is a requirement of entering or remaining within tonnage tax-
   (a) in the case of a single company, that not more than 75%; of the net tonnage of the qualifying ships operated by it is chartered in;
   (b) in the case of a group, that not more than 75%; of the aggregate net tonnage of the qualifying ships operated by the members of the group that are qualifying companies is chartered in.

(2) For this purpose a ship is "chartered in"-
   (a) in relation to a single company, if it is chartered to the company otherwise than on bareboat charter terms, or
   (b) in relation to a group, if it is chartered otherwise than on bareboat charter terms to a qualifying member of the group by a person who is not a qualifying member of the group.

In paragraph (b) "qualifying member of the group" means a qualifying company that is a member of the group.

(3) A ship shall not be counted more than once in determining for the purposes of sub-paragraph (1)(b) the aggregate net tonnage of the qualifying ships operated by the members of a group that are qualifying companies.

(4) In the following provisions the requirement in this paragraph is referred to as "the 75%; limit"-
   (a) paragraph 38 (election not effective if limit exceeded), and
   (b) paragraphs 39 and 40 (exclusion of company or group where limit exceeded).
(5) References to the limit being exceeded in an accounting period are to its being exceeded on average over the period in question.”

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 %age of tonnage under TT?

A bareboat charter-out is allowed in the UK tonnage tax regime if:
- the company has short-term surplus capacity (for instance through a temporary downturn in the market); and
- the ship is bareboat chartered-out for a period of no more than three years.

If the ship is bareboat chartered out for a period that exceeds three years, including multiple charters where the total period exceeds 3 years, this leg of the test will not be satisfied. A cap in terms of % tonnage would be onerous and reduce flexibility.

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

Apart for minor exceptions (as per the answer to C 1.17 above) a company is not regarded as the operator of a ship that has been chartered-out by it on bareboat charter terms. Therefore, as a matter of policy the UK does not apply tonnage tax to vessels chartered out on bare-boat terms.

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?

Please see our response to C 1.18 above.

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

No. Pools are not normally taxable entities in themselves, and their managers effectively act as bare trustees for pooling income and expenditure and apportioning the overall profit and loss to their members.
**C.1.21** Do you consider that if pooled ships fly an EU/EEA flag or have their crew and technical management carried out on the territory of the EU/EEA, this is sufficient to include the revenues of the pool manager of these ships as eligible for tonnage tax?

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

**Pool operators**

As detailed in the response to C.1.20, tonnage tax cannot be applied where pool managers are effectively acting as bare trustees in execution of owners' commercial objectives.

Pool operators may draw together vessels from different owners, over different periods of time, implying a potential diversity of flags to participating vessels, such that a firm link to the EU/EEA flag could weaken the attraction of a Community base to pool managers.

An inclusion of pool operators to tonnage tax would require that they:
- are EU based;
- are acting beyond the role of a bare trustee; and
- display sufficient characteristics to meet a commercial management test, subject to the UK’s broader observation in B.3.6 about the application of the strategic and commercial management test.

**Participating tonnage tax companies**

The advantageous basis of tonnage tax is substantially founded on there being a radiating economic benefit within the Community from the location of tonnage tax activities in Member States. What is important therefore is the location from which tonnage tax companies generate their income, rather than the commercial business model from which the income is derived.

It follows that it would be helpful to provide the shipping industry with certainty on the regard of the Guidelines’ tonnage tax rules toward participation in ship management pools. At times of weak demand the commercial need for pooling arrangements increases.

No limitations should be placed on tonnage tax companies that wish to place their ships into an EU-based pool operation for any length of time, provided that these companies remain responsible for executing strategic direction over their ships. In particular, companies should retain a free hand in meeting existing flag obligations and in determining the crew and technical management solution that meets their business needs.

The option to place ships into a non-EU based pool under tonnage tax should be open, in defined circumstances, if it helps to prevent contraction of the
overall Community shipping base. The same freedoms as above to meet flag share and assign crew and technical management functions should remain. An appropriate limitation might be to impose a time limit on the duration of this type of pooling.

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?

A neutral approach toward the business models from which tonnage tax profits may arise is important to ensure that the widest possible variety of models help to support the maritime cluster. On this basis, capital gains from shipping-related assets are covered by UK tonnage tax. Overall, so long as there is consistent treatment of gains and losses, and where assets are acquired pre-entry there is a mechanism to identify the proportion of gains and losses attributable to the period in tonnage tax, Member States should be free to determine this method.

In the UK tonnage tax regime there is a differentiation in the rules for assets bought before and after a company’s/ship’s entry into tonnage tax in so far as for any period an asset is used for non tonnage tax activities it is taxed outside of the tonnage tax ring fence. This is also applicable if an asset is used partly for non tonnage tax activities. When an asset is disposed of, and that asset is (or has been) a tonnage tax asset, only the gain or loss referable to the time when it was not a tonnage tax asset is brought into account for tax purposes as a chargeable gain or allowable loss.

The gain is calculated by time apportioning the total gain or loss arising (calculated by reference to normal Capital Gains Tax rules) based on the time the asset has been held and the period the asset has been used for qualifying tonnage tax activities. The gain or loss relevant to the time in tonnage tax will form part of the company’s relevant shipping profits. The balance will be brought into account outside the ring fence and subject to mainstream corporation tax rules.

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

Yes, there are two elements that are covered by distinct parts of the UK tax code – excess depreciation allowances (capital allowances) and a potential gain over historic cost (chargeable gain). There is no deemed disposal and reacquisition at market value on entry to tonnage tax which would recover any excess depreciation allowances granted pre-entry.
Paragraph 69 of Schedule 22 of the Finance Act 2000 provides that any unrelieved qualifying expenditure attributable to plant or machinery that is to be used wholly for the purposes of a company’s tonnage tax trade is to be taken to a single pool (the tonnage tax pool). At the point of entry into the tonnage tax regime no adjustment is made in respect of any capital (depreciation) allowances given either in excess of or less than the commercial depreciation (market value) of the asset.

No further (depreciation) allowances at all are given on the asset whilst it is used wholly for the tonnage tax activity. When an asset is sold the tax consequences will depend on a number of factors:

- The disposal proceeds received for the asset;
- The length of time the asset was used in the tonnage tax trade; and
- The amount of any unrelieved qualifying expenditure in the tonnage tax pool.

The disposal proceeds taken to the tonnage tax pool are capped at a maximum of the market value of the asset on entry into tonnage tax. So, for example, if a vessel was acquired for a historic cost of £20m and because of the cyclical nature of shipping only had a market value at entry into tonnage tax of £12m, and was subsequently sold for £15m because of an upturn in demand, only £12m is taken to the tonnage tax pool and the £3m is ignored as it relates to an increase in value wholly attributable to the period of ownership whilst in tonnage tax.

If the disposal proceeds exceed the unrelieved expenditure in the tonnage tax pool a balancing charge will arise (paragraph 77 Schedule 22 of the Finance Act 2000). However the amount of the balancing charge will be reduced by reference to the number of whole years the company has been subject to tonnage tax (paragraph 78 Schedule 22 of the Finance Act 2000) and after seven years the whole of the balance charge will be exempted. If a balancing charge arises in year 1 to 7 the amount remaining after the percentage reduction is charged to tax as if it arose in connection with a trade other than the tonnage tax trade carried on by the business (paragraph 78 Schedule 22 of the Finance Act 2000).

The above rules in relation to capital (depreciation) allowances are modified for assets only partly used for the tonnage tax trade, subject to a change of use and on exit from the tonnage tax regime.

So there is no adjustment for over depreciated assets on entry into tonnage tax and the extent to which an asset over depreciated outside of tonnage tax is ‘compensated’ will depend on the length of time the asset was used in tonnage tax before being sold. Any compensating adjustment will be taxed as if it arose wholly outside of tonnage tax under the normal corporation tax rules and at the appropriate corporation tax rates.

The balancing charge is to recover excess depreciation charges. The capital gains regime will tax or relieve any gain or loss compared to original cost. Losses will be restricted to the extent that relief has been obtained by a net
depreciation allowance, and any proceeds over and above historic cost is a chargeable gain, subject to the time apportionment rule based on time in and out of tonnage tax, and indexation allowance (for inflation). The resulting chargeable gain is taxable at normal corporation tax rates, separately from the tonnage tax profits of the company in the period when the disposal occurs. The normal capital gains rules provide that a capital gains computation takes the form of disposal proceeds less cost less other allowable costs. However the normal rules are modified slightly where the asset is the subject of a capital allowances claim. In relation to UK tax law any vessel propelled by engines is classified as machinery and could be the subject of a capital allowances claim under Part 2 of the Capital Allowances Act 2001. The modification acts to limit the amount of any capital loss to the extent that capital (depreciation) allowances have been given on the asset.

So for example a vessel costing £20m sold for £15m would have been given net capital (depreciation) allowances under Part 2 of CAA 2001 of £5m; the capital gains rules above would have given an allowable (capital) loss of £5m but that loss would be reduced to nil because the owner of the vessel would have been given £5m net capital (depreciation) allowances.

If the vessel had been sold for £25m then no net capital (depreciation) allowances would have been given (any allowances given would have been recovered at the point of sale) and the normal capital gains rules would have resulted in a chargeable gain of £5m (£25m less £20m).

However, the above rules are modified where a company enters the tonnage tax regime. Paragraph 65 of Schedule 22 Finance Act 2000 provides that when an asset is disposed of that is or has been a tonnage tax asset any gain or loss on the disposal is a chargeable gain or allowable loss only to the extent (if any) to which it is referable to periods during which the asset was not a tonnage tax asset, and any such chargeable gain or allowable loss is treated as arising otherwise than in the course of the company’s tonnage tax trade.

The gain or the loss to be brought into account for tax purposes is calculated by time apportioning the total gain or loss by reference to the time that the asset was used outside of tonnage tax as a proportion of the total time that the asset was owned by the company.

However, the treatment of depreciation allowances on assets owned by a company entering tonnage tax does not directly interact with the capital gains rules unless the disposal of the asset gives rise to an allowable loss in which case the allowable loss is restricted as above.

There are two situations where there can or could have been a rollover of a balancing charge.

(i) The first situation is where, under the normal capital allowances regime, a company incurring a balancing charge on the disposal of a ship can claim to defer that balancing charge and set it against expenditure (roll-over) on new shipping acquired within 6 years (section 134 Capital Allowances Act 2001)
onwards). A company may elect into tonnage tax after making such a claim for deferment of a balancing charge, but before it has incurred any expenditure on new shipping.

(ii) A tonnage tax company may not set off such a deferred balancing charge against expenditure on new shipping unless it were a qualifying company (within the meaning of Part 3 of Schedule 22 Finance Act 2000) at the time the deferred balancing charge arose, or would have been had the tonnage tax regime been in force then. If this condition is satisfied, the normal rules for setting off the deferred balancing charge against the expenditure on new shipping continue to apply as if the company had not elected into tonnage tax. Provided the new vessel is owned by the company for at least three years the deferred charge is not re-instated. If a vessel against which a balancing charge has been rolled over is sold within three years then the balancing charge is re-instated but the company can still roll over the balancing charge against any new shipping acquired within the next 3 years. If no new shipping is acquired then the balancing charge is reinstated in full.

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

See the answer provided to C.1.23 above.

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

Copies of the relevant legislation are provided below.

**Finance Act 2000/Schedule 22/Paragraph 64**

(1) In this Part of this Schedule a "tonnage tax asset" means an asset that is used wholly and exclusively for the purposes of the tonnage tax activities of a tonnage tax company.

(2) Where for one or more continuous periods of at least a year part of an asset has been used wholly and exclusively for the purposes of the tonnage tax activities of a tonnage tax company and part has not, this Part of this Schedule shall apply as if the part so used were a separate asset.

(3) Where sub-paragraph (2) applies, any necessary apportionment of the gain or loss on the whole asset shall be made on a just and reasonable basis.

**Finance Act 2000/Schedule 22/Paragraph 65**

(1) When an asset is disposed of that is or has been a tonnage tax asset-

(a) any gain or loss on the disposal is a chargeable gain or allowable loss only to the extent (if any) to which it is referable to periods during which the asset was not a tonnage tax asset, and

(b) any such chargeable gain or allowable loss on a disposal by a tonnage tax company is treated as arising otherwise than in the course of the company’s tonnage tax trade.
(2) For the purposes of sub-paragraph (1) the amount of the gain or loss on a disposal means what would be the amount of the chargeable gain or allowable loss apart from this paragraph.

(3) The proportion of that gain or loss referable to periods during which the asset was not a tonnage tax asset is given by:

\[(P - PTTA) \div P\]

where:

- \(P\) is the total length of the period since the asset was created or, if later, the last third-party disposal, and
- \(PTTA\) is the length of the period (or the aggregate length of the periods) since:
  - (a) the asset was created, or
  - (b) if later, the last third-party disposal, during which the asset was a tonnage tax asset.

(4) In sub-paragraph (3) a "third-party disposal" means a disposal (or deemed disposal) that is not treated as one on which neither a gain nor a loss accrues to the person making the disposal.

**Finance Act 2000/Schedule 22/Paragraph 66**

A tonnage tax election does not affect the deduction under section 8(1) of the Taxation of Chargeable Gains Act 1992 (corporation tax: computation of chargeable gains) of allowable losses that accrued to a company before it became a tonnage tax company.

**Finance Act 2000/Schedule 22/Paragraph 67**

(1) Sections 152 and 153 of the Taxation of Chargeable Gains Act 1992 (roll-over relief for business assets) do not apply if or to the extent that the new assets are tonnage tax assets.

(2) Where relief under either of those sections is, or has been, claimed in respect of the disposal of an asset ("Asset No. 1") and the acquisition of another asset ("Asset No. 2") that subsequently becomes a tonnage tax asset, the claimant is not (or, as the case may be, shall cease to be) entitled under that section to:

- (a) a reduction of the consideration for the disposal of Asset No. 1, and
- (b) a corresponding reduction of the expenditure for the acquisition of Asset No. 2,

but so much of the chargeable gain arising on the disposal of Asset No. 1 as is equal to the amount of the reduction that would have been made is treated as not accruing until Asset No. 2 is disposed of.

(3) Any chargeable gain accruing as a result of the rules in sub-paragraph (1) or (2) is treated as arising otherwise than in the course of the company's tonnage tax trade.

The procedure for notifying a chargeable gain or loss is for the company to include this on its annual corporation tax self assessment return form. A detailed Capital Gains Tax computation should accompany the annual return form and this would then be subject to a risk assessment by the relevant tax
specialist. Should any issues arise, the tax specialist would engage with the company to address any perceived areas of risk.

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.

The ring-fencing measures are set out as follows:

**Finance Act 2000/Schedule 22/Paragraph 52**
An accounting period ends (if it would not otherwise do so) when a company enters or leaves tonnage tax.

**Finance Act 2000/Schedule 22/Paragraph 53**
(1) The tonnage tax activities of a tonnage tax company are treated for corporation tax purposes as a separate trade (the company's "tonnage tax trade") distinct from all other activities carried on by the company.
(2) Sub-paragraph (1) shall not be read as requiring a company to be treated-
   (a) as setting up and commencing a new trade on entry into tonnage tax, or
   (b) as permanently ceasing to carry on a trade on leaving tonnage tax.

**Finance Act 2000/Schedule 22/Paragraph 54**
(1) A tonnage tax company is not subject to any liability under section 747 of the Taxes Act 1988 in any accounting period in respect of profits of a controlled foreign company made to the tonnage tax company would be relevant shipping income of the latter (see paragraph 49).
(2) Schedule 24 to that Act (assumptions for calculating chargeable profits of controlled foreign companies) has effect subject to the following provisions.
(3) If a company in relation to which that Schedule applies-
   (a) is a member of a tonnage tax group, and
   (b) is a tonnage tax company by virtue of the group's tonnage tax election, or would be if it were within the charge to corporation tax, it shall be assumed for the purposes for which that Schedule applies to be a single company that is a tonnage tax company.
(4) Nothing in paragraph 5(1) of that Schedule (controlled foreign company assumed not to be member of a group) affects sub-paragraph (3) above.
For accounting periods ending before 1st April 2000 the reference to paragraph 5(1) has effect as a reference to paragraph 5 of that Schedule.
(5) Paragraph 20 of that Schedule (provisions for avoiding double charge) does not apply where, or to the extent that, the transaction in question is one any profits from which would be, or would be reflected in, relevant shipping profits of a party to the transaction.

**Finance Act 2000/Schedule 22/Paragraph 55**
No relief, deduction or set-off of any description is allowed against the amount of a company's tonnage tax profits.
Finance Act 2000/Schedule 22/Paragraph 56
(1) When a company enters tonnage tax, any losses that have accrued to it before entry and are attributable-
   (a) to activities that under tonnage tax become part of the company's tonnage tax trade, or
   (b) to a source of income that under tonnage tax becomes relevant shipping income,
are not available for loss relief in any accounting period beginning on or after the company's entry into tonnage tax.
(2) Any apportionment necessary to determine the losses so attributable shall be made on a just and reasonable basis.
(3) In sub-paragraph (1) "loss relief" includes any means by which a loss might be used to reduce the amount in respect of which that company, or any other company, is chargeable to tax.

Finance Act 2000/Schedule 22/Paragraph 57
(1) Any relief or set-off against a company's tax liability for an accounting period does not apply in relation to-
   (a) so much of that tax liability as is attributable to the company's tonnage tax profits, or
   (b) so much of that tax liability as is attributable to tonnage profits of a controlled foreign company apportioned to the company under section 747(3) of the Taxes Act 1988.
(2) Relief to which this paragraph applies includes, but is not limited to, any relief or set-off under-
   (a) section 788 or 790 of the Taxes Act 1988 (double taxation relief), or
   (b) regulations under section 32 of the Finance Act 1998 (unrelieved surplus advance corporation tax).
(3) Sub-paragraph (1)(b) applies whether or not the company to which the profits are apportioned is subject to tonnage tax.
(4) For the purposes of sub-paragraph (1)(b)-
   (a) "tonnage profits" means so much of the chargeable profits of the controlled foreign company as, on the assumptions in Schedule 24 to the Taxes Act 1988, are calculated in accordance with paragraph 4 of this Schedule; and
   (b) so much of a controlled foreign company's chargeable profits for any accounting period as are tonnage profits shall be treated as apportioned under section 747(3) of that Act in the same proportions as those chargeable profits (taken generally) are apportioned.
(5) For the purposes of any such regulations as are mentioned in sub-paragraph (2)(b), a company's tonnage tax profits shall be left out of account in determining the company's profits charged to corporation tax. This does not affect the computation under those regulations of shadow ACT on distributions made by a tonnage tax company, whether paid out of tonnage tax profits or other profits.
(6) This paragraph does not affect-
   (a) any reduction under section 13(2) of the Taxes Act 1988 (marginal small companies' relief), or
   (b) any set off under section 7(2) or 11(3) of the Taxes Act 1988 (set off for income tax borne by deduction).
Finance Act 2000/Schedule 22/Paragraph 58
(1) In relation to provision made or imposed as between a tonnage tax company and another person by a transaction or series of transactions that-
   (a) falls in relation to the tonnage tax company to be regarded as made or imposed in the course of, or with respect to, its tonnage tax trade, and
   (b) does not fall in relation to the other person to be regarded as made or imposed in the course of, or with respect to, a tonnage tax trade carried on by that person,
Schedule 28AA to the Taxes Act 1988 (transactions not at arm's length) has effect with the omission of paragraphs 6 to 7A (elimination of double counting etc).
(2) Expressions used in Schedule 28AA have the same meaning in this paragraph.
(3) Nothing in this paragraph affects the computation of a company's tonnage tax profits.

Finance Act 2000/Schedule 22/Paragraph 59
(1) Schedule 28AA of the Taxes Act 1988 (transactions not at arm's length) applies to provision made or imposed as between a company's tonnage tax trade and other activities carried on by it as if-
   (a) that trade and those activities were carried on by two different persons,
   (b) the provision were made or imposed between those persons by means of a transaction, and
   (c) the two persons were both controlled by the same person at the time of the making or imposition of the provision.
(2) As applied by sub-paragraph (1), Schedule 28AA has effect with the omission of paragraphs 6 to 7A (elimination of double counting etc).
(3) Expressions used in Schedule 28AA have the same meaning in this paragraph.
(4) Nothing in this paragraph affects the computation of a company's tonnage tax profits.

Finance Act 2000/Schedule 22/Paragraph 60
(1) Not more than 90 days after-
   (a) the making of an election under this Schedule, or the occurrence of any other event, as a result of which a company enters, or is taken to have entered, tonnage tax, or
   (b) the making of an election under this Schedule as a result of which a company will become a tonnage tax company at a later date,
the company shall give notice under this paragraph to any person whose tax liability may be affected by paragraph 58 (transactions not at arm's length).
(2) The notice must state-
   (a) that the company has become a tonnage tax company, or
   (b) that an election has been made under this Schedule as a result of which the company will become a tonnage tax company,
and inform the person to whom it is given of the possible application of the provisions of Schedule 28AA in relation to transactions between the company and that person.

**Finance Act 2000/Schedule 22/Paragraph 61**

(1) This paragraph applies to a tonnage tax company which is a single company carrying on tonnage tax activities and other activities.

(2) An adjustment shall be made if it appears, in relation to an accounting period of the company, that the company's deductible finance costs outside the ring fence exceed a fair proportion of the company's total finance costs.

(3) The company's "deductible finance costs outside the ring fence" means the total of the amounts that may be brought into account in respect of finance costs in calculating for the purposes of corporation tax the company's profits other than relevant shipping profits.

(4) A company's "total finance costs" means so much of the company's finance costs as could, if there were no tonnage tax election, be brought into account in calculating the company's profits for the purposes of corporation tax.

(5) What proportion of the company's total finance costs should be deductible outside the ring fence shall be determined on a just and reasonable basis by reference to the extent to which the funding in relation to which the costs are incurred is applied in such a way that any profits arising, directly or indirectly, would be relevant shipping profits.

(6) Where an adjustment falls to be made under this paragraph, an amount equal to the excess referred to in sub-paragraph (2) shall be brought into account as if it were a non-trading credit falling for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) to be brought into account in respect of a loan relationship of the company in respect of non-tonnage tax activities.

**Finance Act 2000/Schedule 22/Paragraph 62**

(1) This paragraph applies to a tonnage tax company which is a member of a tonnage tax group where the activities carried on by the members of the group include activities other than tonnage tax activities.

(2) An adjustment shall be made if it appears, in relation to an accounting period of the company, that the group's deductible finance costs outside the ring fence exceed a fair proportion of the total finance costs of the group.

(3) A group's "deductible finance costs outside the ring fence" means so much of the group's finance costs as may be brought into account in calculating for the purposes of corporation tax-

(a) in the case of a group member that is a tonnage tax company, the company's profits other than relevant shipping profits, and

(b) in the case of a group member that is not a tonnage tax company, the company's profits.

(4) A group's "total finance costs" means so much of the group's finance costs as could, if there were no tonnage tax election, be brought into account in calculating for the purposes of corporation tax the profits of any member of the group.

(5) What proportion of the group's total finance costs should be deductible outside the ring fence shall be determined on a just and reasonable basis by
reference to the extent to which the funding in relation to which the costs are incurred is applied in such a way that any profits arising, directly or indirectly, would be relevant shipping profits.

(6) Where an adjustment falls to be made under this paragraph, an amount equal to the relevant proportion of the excess referred to in sub-paragraph (2) shall be brought into account as if it were a non-trading credit falling for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) to be brought into account in respect of a loan relationship of the company in respect of non-tonnage tax activities.

For this purpose "the relevant proportion" is the proportion that the company's tonnage tax profits bear to the tonnage tax profits of all the members of the group.

**Finance Act 2000/Schedule 22/Paragraph 63**

(1) For the purposes of paragraphs 61 and 62 "finance costs" means the costs of debt finance.

(2) In calculating the costs of debt finance, the matters to be taken into account include-

(a) any costs giving rise to a trading or non-trading debit under Chapter II of Part IV of the Finance Act 1996 (loan relationships);
(b) any credit or debit falling to be brought into account under Sch 26 to the Finance Act 2002(derivative contracts),in relation to debt finance;
(c) any exchange gain or loss within the meaning given by section 103(1A) of the Finance Act 1996 in relation to debt finance;
(d) the finance cost-
   (i) implicit in a payment under a finance lease, or
   (ii) payable on debt factoring or any similar transaction; and
(e) any other costs arising from what would be considered on normal accounting principles to be a financing transaction.

(3) No adjustment shall be made under paragraph 61 or 62 if, in calculating for a period the company's, or as the case may be, the group's deductible finance costs outside the ring fence, the amount taken into account in respect of costs and losses is exceeded by the amount taken into account in respect of profits and gains.”

The tonnage tax regime is very tightly ring fenced to ensure that only income and expenses that properly belong to the ship operation trade are included within relevant shipping profits, and all other income and expenses are taxed under the normal corporation tax rules.

The general ring fence covers a range of issues:

- In order to facilitate the separation of relevant shipping profits from other profits, a company will begin a new accounting period when it enters or leaves tonnage tax, and a company's tonnage tax activities are deemed to be a separate trade distinct from its other activities.
- Controlled Foreign Companies (CFC) may be carrying on shipping trades which would be qualifying trades if the CFC were resident in the UK. There are special rules to deal with the treatment of dividends received by, or amounts apportioned to, UK companies.
- Tonnage tax is designed to produce a minimum level of tax, and there are special rules to prevent deductions being made from tonnage tax profits, or against the tax on those profits.
- The general transfer pricing rules are extended to cover transactions across the tonnage tax ring fence.
- There are special rules to prevent a company or group charging a disproportionate amount of its finance costs outside the ring fence.

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.

The measures are sufficiently robust to reduce the possibility of spill over of State aid and sufficient compliance activity is undertaken to help monitor the implementation of these measures.

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

In practice yes, as it is difficult to prevent any spill over at all without a full audit of each company every year which in practice is not a realistic approach. An annual risk based approach is adopted to ensure that the measures are effectively applied and HMRC resource is targeted at areas of risk.

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

There is an anti-avoidance measure which has the effect of excluding from tonnage tax any company which is party to avoidance transactions or arrangements.

**Finance Act 2000/Schedule 22/Paragraph 42**

1. If a tonnage tax company is a party to any such transaction or arrangement as is mentioned in paragraph 41(1), the Inland Revenue may-
   (a) if it is a single company, give notice excluding it from tonnage tax;
   (b) if it is a member of a group, give notice excluding the group from tonnage tax.
2. The effect of the notice in the case of a single company is that the company's tonnage tax election ceases to be in force from the beginning of the accounting period in which the transaction or arrangement was entered into.
3. The effect of such a notice in the case of a group is that the group's tonnage tax election ceases to be in force from such date as may be specified in the notice.
   The specified date must not be earlier than the beginning of the earliest accounting period in which any member of the group entered into the transaction or arrangement in question.
4. The provisions of paragraphs 138 and 139 (exit charge: chargeable gains and balancing charges) apply where a company ceases to be a tonnage tax company by virtue of this paragraph.
(5) Notice under this sub-paragraph (1)(b) need only be given to the company mentioned in the opening words of that sub-paragraph. This is subject to any arrangements under paragraph 120 (arrangements for dealing with group matters).
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.

UK summary:
Labour costs are a significant factor for a shipping company in deciding where to base its operations. One key element where non-EU fleets are more competitive than EU-fleets is in the area of labour costs. The existing provisions support the participation of EU resident seafarers in a global employment market.

We would stress that we would be against further state aid measures in this area to counterbalance and alleviate the impact of additional EU labour costs which may arise from the Commission’s proposed maritime social agenda.

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.

(i) Reduced contributions for social protection
Contributions assigned to social protection purposes can help to uphold an expectation of a global norm that all seafarers, irrespective of nationality or country of residence, will be afforded the least level protection that is accepted between Member States. There is a need to balance this objective against the risk of importing negative effects into the Community shipping base.

The specific regulations applying to seafarers in this area have been repealed and replaced with generic legislation (Regulation (EC) 883/2004) which entered into force in May 2010. The impact of this change, which has been to the detriment of the EU maritime cluster, must be reflected in the Guidelines.

In summary, under the new Regulations, any employer based in the EU employing EU seafarers for work on a UK registered ship must pay UK national insurance contributions. This has led to EU ship operators sourcing their seafarers from employers based outside of the EU to continue legitimately avoiding the need to pay employers’ social contributions. The impact is clear – a reduction in maritime know-how and a disincentive to employ European seafarers.

(ii) Reduced rates of income tax
This measure is an important lever to help tonnage tax companies reach toward a competitive parity of wage costs amongst seafarers of different countries of residence. It supports the participation of EU resident seafarers
in a global employment market and it is difficult to foresee whether any alternative measure could help in this way.

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?

The direct link to EU registration has been shown to result in action which goes against the objectives of the Guidelines.

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

No.

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.

Please see our response to F 1.2.

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. Member States should have the freedom, under the Guidelines, to target support as required in that particular Member State.
E. 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.

The UK Government operated a Crew Relief Costs Scheme until March 2011 at which point the scheme ceased to exist. The costs of operating the scheme could no longer be supported in light of the current economic climate and it was difficult to assess the effectiveness of the scheme in securing the employment of UK seafarers.

Power still exists within UK legislation to allow the Secretary of State for Transport, with the consent of the Treasury, to provide financial assistance in respect of travel and other costs in exceptional cases.
F. TRAINING AID

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?

The UK’s Support for Maritime Training (SMarT) scheme constitutes State aid within the meaning of Article 87(1) of the Treaty. The scheme was cleared by the Commission in 1998, 2001 and 2004.

The value of aid provided under this scheme is detailed under section B3.2.

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?

We would argue in favour of retaining all rules relating to maritime State aid in the one legal document. We believe this facilitates a greater understanding and application of the guidelines by all stakeholders.

However, we note that there is an inconsistency between the current Maritime Guidelines and the GBER rules. Our reading of the GBER rules are that the conditions relating to (a) supernumerary; and (b) link to a Community register only apply where aid granted to the maritime sector is greater than 60%. The Maritime Guidelines would appear to apply these two conditions regardless of the percentage of aid provided.

It is essential to clarify what conditions apply and that sound reasoning is used to justify these.

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

The conditions relating to (a) supernumerary; and (b) link to a Community register should be brought in line with the GBER rules – i.e. these should only apply where State aid is greater than 60%.
G. SHORT SEA SHIPPING

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.*

The UK Government has made use of this provision. The UK’s Waterborne Freight Grant (WFG) scheme is bound by the Maritime State Aid Guidelines. The scheme was cleared by the Commission as follows:

- N206/2003; and
- N246-2009

WFG is designed to facilitate and support modal shift to waterborne freight services, generating environmental and wider social benefits from reduced lorry journeys on Britain’s roads.

We would not support the removal of the provision for short sea shipping from the Maritime Guidelines. We believe that the strategic aims behind granting aid to this sector – “to improve the intermodal chain and to decongest roads” – remain equally strong today. However, as noted in our response to Section B2.4, there is a need to review the criteria governing aid to short sea shipping to remove the disparity with State aid rules for land based modes such as rail.

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.*

As noted above, the UK believes it is important to retain the possibility to grant start up aid to short sea and coastal shipping. Although only three Waterborne Freight Grants were awarded for short sea/coastal shipping (i.e., excluding inland waterway grants made under the scheme prior to 2010) during the period 2004-11, there is ongoing interest from potential applicants. The UK has provisionally awarded a further grant under the scheme and this is now being assessed.

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?*

We believe it would be beneficial to remove the differing conditions between funding for Motorways of the Sea funding and funding provided under the Maritime Guidelines.
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?

Given our geographical location, the UK is not best placed to comment on this.
H. APPLICATION OF THE AID CEILING

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

The UK is content with the current aid ceiling, which offers a necessary safeguard against subsidy races. As indicated in response to B.5.2 and B.5.3 we are not aware of any perceived distortions, and this suggests that the aid ceiling achieves its purpose. The composite approach to the ceiling assures adherence through calculation on an accumulation of aid.

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

The UK has no observations to offer.

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

The UK uses the Guidelines as the basis of national practice.

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

As indicated above, the necessity to calculate is only engaged on the accumulation of aid toward the ceiling.

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

Please see our response to H.1.4 above.

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

A consistent application of tonnage tax since 2000 allows potential room for an occasional use of other approved aids and has settled UK aid intensity within the ceiling.
H.1.7 What types of administrative difficulties do you face in applying the ceiling?

Please see our response to H.1.4 above.

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

The UK has no observations to offer.
I. NOTIFICATION AND REPORTING OBLIGATIONS

1.1.1 *What is your experience in complying with these provisions?*

We consider a yearly reporting obligation is still appropriate.

Now that all State aid sit with DG Competition we would strongly encourage a rationalisation of reporting requirements, noting that currently we have to provide information on maritime State aid as part of our return on all State aids. This is in addition to the reporting requirements under the Maritime Guidelines.

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

We would advocate greater application of an annual risk-based assessment in monitoring compliance.