

## MARITIME POLICY OF THE EUROPEAN UNION AND THE MEDITERRANEAN (Marina Portorož, Slovenia, 21st May 2010)

### *Some Current Themes Regarding Malta's Maritime Policy*

It is my pleasure and a privilege for me to be here today and to share with you a few of my thoughts on *maritime policy* in the jurisdiction of my country of origin, Malta. For those of you who do not know me I am a practising advocate and a committee member of the Malta Maritime Law Association (MMLA). It is the Association that has kindly asked me to attend this event, following an invitation from the organisers.

Allow me to start by going back a few years, some five years or so ago. At that time, the so-called *Green Paper* on maritime policy addressing the *maritime affairs of Europe*, was being discussed and drawn up. When the European Commission<sup>1</sup> took up this initiative, the Government of Malta went on record and welcomed the initiative, having considered this initiative, at the time, as *a basis towards the development and elaboration of a holistic EU maritime policy*.<sup>2</sup>

Notwithstanding Malta's instinctive support to the initiative, it is, as yet, premature to state that Malta has formed a truly *integrated* maritime policy at national level. Policy in Malta continues to be moulded, formed and developed on fragmented, sectoral lines, in the traditional fashion. As the Commission explains in its *Guidelines*, apart from financial constraints, a general lack of collaboration and lack of coordination structures between players and the long time it takes administrations and stakeholders to internalise fully integrated thinking are the reasons why policy making (governance) remains compartmentalised.

Malta, of course, being an archipelago that sits bang in the middle of the Mediterranean basin, with a coastline that is 173km long, will have, by definition, policies that have an indirect and, more often, a direct maritime consequence.<sup>3</sup> Let me give some examples of policy decisions taken in recent time with evident maritime implications: Government is presently promoting a policy that foresees the development of Malta's marinas – surely an example of policy with a maritime flavour. Malta has, in very recent times, determined the future its ship building and ship repair industries. Once again, a case of policy that depicts an evident maritime element. Tourism always forms a topical discussion in Malta, since we are quite reliant on this income-generating industry. Because of our geography, our tourism policy will, to a large degree, always have coastal and other maritime implications. Malta has, in recent times, embraced a policy that encourages cruise liner tourism – again policy with a maritime element. Illegal economic immigration into Malta by sea, from the South, is another recurring political theme with maritime implications. Of course, as in any other civil society, policy-making is an ongoing affair - as you all will appreciate, because Malta is an archipelago, a substantial amount of that policy will invariably

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<sup>1</sup> The initiative was spearheaded by a *steering group of EU Commissioners* who, in turn, created a *maritime affairs task force* to draft the aforementioned *Green Paper*.

<sup>2</sup> Malta's Contribution towards the Commission's Green Paper on Maritime Policy, Ministry of Competitiveness and Communications, 17 Jan., 2006.

<sup>3</sup> The page at [www.ec.europa.eu/maritimeaffairs](http://www.ec.europa.eu/maritimeaffairs) on 'Facts and Figures – Malta' presents a good snapshot of Malta's maritime face.

have maritime implications. And yet, the sea is rarely - itself - the centre of gravity of that policy. And that is precisely the point I want to make here: so far, we lack a policy where it is the sea, the ocean, the marine environment itself that forms the very subject matter, the starting point, the focus of the debate. And Europe is trying to tell us all – the sea, that is to say, the marine environment in the larger sense of the word, should be the focus of our policy: and that this maritime policy should be holistic, in other words, integrated.

I must insist that the absence in Malta of one, clearly defined, all-embracing maritime policy is not meant to be understood as the nation's refusal of the concept. Rather the contrary. So much so, that in its contribution to the *Green Paper*, Malta informed the Commission that, in principle, Malta fully supports the proposal of an integrated maritime policy not only at national level but at European level. One can also read in Malta's submissions a hint that a maritime policy for the Mediterranean (possibly within the bigger framework of the EU's maritime policy itself) would not be a bad idea too!<sup>4</sup> After all, regional cooperation of this sort is envisaged in the 1982 Montego Bay Convention itself.<sup>5</sup>

As we have seen, policy that concerns maritime matters, although not in an *integrated form* as understood in the Blue Book, does, of course, already exist in Malta. I would like to highlight Malta's policy regarding its maritime flag and the merchant fleet that flies that flag: undoubtedly, this will be a policy that contains a strong maritime element *par excellence*. The Maltese merchant fleet is the second largest Flag in the EU, after Greece, and the sixth largest Flag internationally. It is Malta's policy that, as one of the major international 'open registries', it will continue to strive to retain its Flag as a 'Flag of Confidence' – and let me give merit here once it is deserved.<sup>6</sup> In recent years, it has also become Malta's policy to extend its flag-registration expertise to 'super yachts' and we are seeing quite some enthusiasm in that sector, perceived as a growth area.<sup>7</sup> The interest in yachts ties with Malta's policy to continue seeking opportunities to develop its marinas and to dedicate the existing ship repair infrastructure to serve the yacht industry. On ship registration, over the years, Malta has seen its policy develop in a manner where we have seen the law on ship registration develop from a somewhat crude start in the mid 1970s to sophisticated legislation (i) that incorporates all major international maritime conventions, (ii) that provides special flagging options for vessels that are bareboat and operational facilities for vessels that are operated under charter,<sup>8</sup> (iii) that offers a tonnage tax regime that withstands the EU's litmus test and (iv) that extends that regime to ship management and to ships that are not Malta-flagged.

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<sup>4</sup> When Malta presented its position paper in 2006, it stressed the pan European character of the Mediterranean Sea *vide* 'Towards a National Integrated Maritime Policy for Malta in the Light of EU Membership', Joseph Borg Camilleri, M.A. (European Studies) Thesis, University of Malta, September 2009. See also Speech by Maltese Commissioner, Joe Borg, at Press Conference *Towards an Integrated Maritime Policy For Better Governance*, Brussels 11 September 2009 and [www.ec.europa.eu/maritime-affairs/mediterranean\\_en.html](http://www.ec.europa.eu/maritime-affairs/mediterranean_en.html).

<sup>5</sup> Article 123 of the 1982 UN Convention of the Law of the Sea.

<sup>6</sup> <http://www.dca.gov.mt/Page.aspx?pageid=470&lid=1>.

<sup>7</sup> <http://www.dca.gov.mt/Page.aspx?pageid=503&lid=1>.

<sup>8</sup> Bareboat charter registrations (in or out) in cases of vessels that are 'bareboated' and other facilities for vessels that are operated under chartered.

In June 2008, Malta, like all member states, has been *invited* by the Commission to draw up its own national IMP.<sup>9</sup> This invitation, I am sure, will be something that Malta will take up and I expect to see developments occurring here in the years to come. The MMLA will be, amongst others, a contributor to this discussion. Malta, like most other member states, will have to struggle to start thinking in terms of a comprehensive, all-embracing maritime policy that will start to address under one umbrella all issues concerning the sea, in a truly *integrated* manner. More often than not, as we have seen, the tendency is to think in sectoral terms. Perhaps one instance where Malta can make a claim to an integrated maritime policy of sorts is with regard to the Grand Harbour plans and reports – taken together these plans and reports form what, I ask you to permit me to call, a ‘quasi-integrated maritime policy’, limited however, to a specific area of the islands.<sup>10</sup> A semblance of a start for Malta, but one that is surely in the right direction - since we see an attempt being made to ‘holistic thinking’ with an area of sea and coast as the subject matter of that process.

Having maritime policy that is integrated at national level is no easy feat. Of course, it is a much bigger challenge to create an integrated maritime policy at EU level. Consolidating the fragmented maritime policies of the EU itself and of its member states into one holistic whole will be a mammoth task. Hence, the justification in applauding the European *Blue Paper*<sup>11</sup> as the blue print that will serve to map the road ahead. There may be consensus in favour of the principle of an integrated maritime policy, but it is quite something else finding consensus on the detail and the implementation of the policy. When debating the detail, numerous challenging questions arise: for example, the question raised by the Malta Maritime Law Association in its follow up of the *Green Paper* as to the role that should be played by salvors in the creation of such a policy.<sup>12</sup> We must remember that salvors are held out to be Europe’s first line of defence against marine pollution.

To conclude: notwithstanding the natural tendency in Malta -as in most other countries- for policymakers to ‘compartmentalise’ maritime governance,<sup>13</sup> there is some evidence that policymakers in Malta are, in more recent times, becoming more receptive to the concept of a holistic maritime policy that looks at the larger picture with the sea and the related marine and coastal environment at its centre. You can start to pick this up, for example, from the policy debates that go on in the country. Admittedly, some of the merit for this goes to the EU and also, therefore, to Slovenia. As I understand, Slovenia, that held the first conference on maritime policy in the Mediterranean<sup>14</sup>, is a strong promoter

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<sup>9</sup> Brussels, 26.6.2008, COM(2008) 395 final, *Communication From The Commission To The Council, The European Parliament, The European Economic And Social Committee And The Committee Of The Regions - Guidelines for an Integrated Approach to Maritime Policy: Towards best practice in integrated maritime governance and stakeholder consultation – drawn up in terms of the Blue Paper*. The Guidelines are aimed at encouraging member states and other players to take steps adopting an integrated approach to sea-related affairs within their governance frameworks (hereinafter *Guidelines*).

<sup>10</sup> Amongst the plans and policies that taken together can be said to form a quasi integrated maritime policy for the harbor area see (i) the Grand Harbour Local Plan, MEPA 2002, Reviewed 2006; (ii) the Dock No 1: The Regeneration Project for Cottonera, MEPA 2004 and (iii) MIMCOL: Grand Harbour Report *vide* [https://mitc.gov.mt/MediaCenter/PDFs/1\\_Grand%20Harbour%20Rep.%20Part1.pdf](https://mitc.gov.mt/MediaCenter/PDFs/1_Grand%20Harbour%20Rep.%20Part1.pdf) - admittedly the focus of the reports are the coastal areas.

<sup>11</sup> That is, the Integrated Maritime Policy (IMP) for the EU, proposed by the Commission in October 2007 and endorsed by the Council and Parliament.

<sup>12</sup> MMLA’s letter to the EU Commissioner for Fisheries and Maritime Affairs, Joe Borg dated 27 June 2007.

<sup>13</sup> In its *Guidelines*, the Commission admits that this is the case at international, European, national, regional and local levels.

<sup>14</sup> In Piran, in June 2008.

of the concept and an active participant in initiatives that take place to support it. Surely not an easy task for any country. Well done!

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*The views expressed in this paper are personal and do not necessarily reflect the position of the Government of Malta or of any other entity or authority. I wish to thank Dr Ann Fenech and Mr Joseph Borg Camilleri, MMLA's President and previous Administrator respectively, for their assistance in the drawing up of this paper.*