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Institute of Marine Engineers Annual Dinner;
London.

Speech by Mr. Richard Burke,
Member of the Commission of the European Communities.

Mr. President,

I regard it as a great honour to have been invited to address the annual dinner of this distinguished Institution. You have, I believe, some 20,000 members. At a glance I would say a considerable proportion of them seem to be here tonight. It therefore gives me great pleasure to have the opportunity of saying a few words to this large and expert audience about shipping policy in the European Economic Community, and particularly about shipping safety and the prevention of marine pollution. My case will be that the Community can and does play a distinctive and very useful part in the definition and defence of sensible shipping policies for Europe and the world; that it can, indeed, sometimes achieve results which could not have been obtained by the Member States acting on their own.

The Common Market's interest and activity in shipping affairs at Community level is, of course, fairly recent. It is only some five or six years ago that we got moving, as a result of a number of impulses which were all experienced at around the same time.

First, the enlargement of the Community in 1973 to include the United Kingdom, Denmark and my own country meant that shipping automatically became much more important than it had been for the Community of Six. For two of the new Member States, the U.K. and Denmark, shipping was a major industry, while for Ireland, and the U.K. again, it was important because practically all their international trade moved by sea.

The second impulse came when the Court of Justice of the European Communities, in Luxembourg, pronounced in 1974 its important decision stating that the general rules of the Treaty of Rome apply to shipping just as much as to the rest of the economy. This had previously been doubted or denied by some of the Member States. The Court thus declared that what the Treaty says about such economically important matters as freedom of establishment, the free movement of workers, the rules of competition, State aids and so on applies also to shipping. This finding of the Court had the automatic effect of bringing shipping policy-making within the ambit of the Community's integration process.

Thirdly, Mr. President, it was at about the same time that all the Member States began to find themselves faced with a series of difficult problems of external shipping policy which did not seem capable of easy solution at national level. These problems may be roughly differentiated as coming from the East, the West and the South; they are still with us today, but in each case the Community has either already taken significant steps towards dealing with them, or set in hand processes likely to lead to a solution in the longer term. I might perhaps say a word about each of these problem areas in order to illustrate the scope of Community action in shipping.

Let us take first the problem from the East; I mean, of course, the problem of non-commercial competition from the Soviet merchant fleet as a cross-trader in key liner trades to and from the Community. I am not going to expound this

matter in detail because I have done so several times before - without always getting the response from the Member States for which I had hoped. Let me just say that it seems to me pretty ironical that recent events have produced a situation in which cross-traders, some of them from the Community, are suffering from the limitations imposed by the United States on grain exports to the Soviet Union, while at the same time the Soviet fleet continues its considerable level of activity as a non-commercial cross-trader in our own liner trades, capable, because of the economic system within which it operates, of offering freight rates well below those which our own fleets can offer in the long term if they want to stay in business.

Faced with this problem the Council of the European Communities - that is, the Shipping Ministers of the Nine - have adopted two formal Decisions proposed to them by the Commission. The first of these required the Member States to equip themselves to monitor the activities of fleets which were causing difficulties to Community shipping. It also envisaged future Council decisions in favour of the co-ordinated use by Member States of the counter-measure powers which most of them already have in their national legislation. This co-ordination would make it possible, for instance, for the Member States to apply limits, a quota system, to the carryings of Soviet ships to and from our ports. The second Council Decision provided for the Member States to monitor all liner operators on two routes where it was felt that the Soviet presence was in fact particularly marked - namely, those between the Community and East Africa and between the Community and Central America. This monitoring has been going on for over a year now and will

continue at least for the rest of this year. We are currently analysing the first results and I hope that these will show whether further action is needed.

I should stress, Mr. President, that the Member States and the Commission are not opposed to the presence of Soviet outsiders or conference members in our liner trades. But since their operations are essentially non-commercial we feel entitled to keep it within reasonable limits, and the Community has the power to do this.

Let us turn now, Mr. President, to the problem from the South, by which I mean the pressure from the developing world for a greater share in carrying its seaborne trade.

If we look first at the liner trades, we have an area where I can say that the Community has fully recognised the aspirations of the developing countries to participate more fully in the carriage of the general cargo generated by their trade. This recognition is reflected in the Council's adoption, last May, of its Regulation on the UNCTAD Code of Conduct for Liner Conferences. This Regulation encapsulates the Community's solution to the very difficult problems which the UNCTAD Code presented. It provides for the Member States to ratify the Code, which will now come into force and will be fully applied in liner conference trades between the Community and the developing world, and, indeed, in liner trades with other non-OECD countries which also become contracting parties. At the same time, however, the 40:40:20 cargo-sharing principle in the Code will not be applied in liner trades between Member States or, we hope, between Member States and other OECD countries. Nor will it be applied as between shipping companies from member states and, on a reciprocal basis, other OECD shipping companies, in trades between the Community and non-OECD

contracting parties. The Community is convinced that in this way it has done its duty both to the developing world and to the OECD. Its approach seems likely to be followed by a number of other OECD countries; the adoption of the Council's Regulation has, indeed, put the Community at the centre of world policy-making in the liner shipping field.

As for the other shipping policy problems posed essentially from the South, Mr. President, I have time to say no more than that the Commission, like the Member States and indeed the whole of the OECD, is entirely opposed to any introduction of cargo-sharing in the field of bulk shipping; we shall resist this very strongly as commercial and economic nonsense. Flag discrimination in this field would inhibit the flexible deployment of ships which is necessary in order to minimize voyages in ballast, and would thus certainly increase the cost of bulk shipping, to the disadvantage of both consumers and producers of the bulk goods themselves.

At the same time the Commission, and most of the Member States, are determined to resist any rash attempts to abolish the open registers, while remaining absolutely determined to put every obstacle in the way of the operation of sub-standard ships.

As I have said, the Community solution on the Code of Conduct has pointed the way towards a more harmonious development of North/South relations in shipping. The climate for such a development has also been assisted by the adoption, as part of the new Lomé II agreement between the Community and nearly sixty developing countries in Africa, the Caribbean and the Pacific - the ACP countries, of a Joint Declaration on Shipping. In this the Community states its willingness.....

to contribute to the development, on sound economic principles, of the shipping sector in those ACP States which so request. We think that this is the right approach to a fruitful co-operation with developing countries instead of the artificial, politically motivated confrontation we have only recently witnessed again in Geneva when the question of open registries was discussed, or, to be more precise, was not discussed at all.

This almost brings me, Mr. President, to the question of shipping safety and pollution prevention; but before I turn to that just let me say one word about the problems from the West. I mean, of course, the obstacles which United States anti-trust legislation, policy and philosophy place in the way of the operation of cost-effective liner services to and from America. Here I believe that the way to a more satisfactory modus vivendi may lie in the adoption by the Council of Ministers of a Regulation applying the competition rules of the Treaty to shipping, and in particular to liner conferences. The Commission will be proposing a draft Regulation soon. This will not overturn the system of liner conferences as we know them in Europe, but it will provide the Community for the first time with a legislative text which we shall be able to put on the table side by side with the United States law and say to the Americans "OK, now we've each got a law on liner conferences; so let's sit down, pool our ideas and find a solution to the problem of the liner trades on the North Atlantic".

Mr. President, it was, you will recall, the "Amoco Cadiz" disaster which caused the Heads of State and Government of the Community to express the view almost two years ago that the Community must play a significant part in the search for greater shipping safety and for more effective prevention of pollution from ships. I was, of course, personally, too, greatly shocked by the tragic explosion of the tanker "Betelgeuse" in Bantry Bay in my own country. Subsequent events have in fact already shown that the Community can play very useful role in shipping safety. And it can do so without in any way duplicating, still less hindering, the work of IMCO, a remarkable successful organisation based just the other side of Hyde Park Corner, to whose work, and to whose distinguished Secretary-General Mr. Srivastava, I should like to pay a warm tribute tonight. The Community can in fact help IMCO considerably, as IMCO can help the Community. We can contribute by being active in the field of the actual enforcement by the Member States of the standards set by IMCO in its international Conventions. We can also do so by hurrying the Conventions into force in the first place through encouraging the Member States to ratify them at the earliest possible moment. And the Community can, I think, usefully act in shipping safety at regional level in areas where no conflict with IMCO work arises.

What has been achieved so far? First, the Council of Ministers has adopted two Recommendations which press the Member States to ratify by specific dates the key IMCO and ILO Conventions on shipping safety and pollution prevention.

These include SOLAS 1974 and its 1978 Protocol; MARPOL as amended and extended by its 1978 Protocol; the ILO's Convention of 1976 on Substandard Ships; and IMCO's very important Convention on Standards of Training and Watch-keeping, on which I want to say a special word in a moment. The Community can make a major contribution towards the entry into force of these Conventions simply because of the tonnage which the Member States represent. When Greece joins in ten months' time the Community will represent almost 30% of total world tonnage.

The Council has also adopted two Directives providing for action at regional level of the kind which I have just mentioned. The first of these Directives lays down requirements to be met by oil, gas and chemical tankers approaching and using our ports. The second Directive requires the Member States to ensure the availability of a sufficient supply of competent and properly-certificated deep-sea pilots in the English Channel and the North Sea, and to encourage their shipping only to use such properly-qualified pilots. The Community is also currently supporting an initiative in IMCO designed to encourage shipping of all flags only to employ properly-qualified deep-sea pilots in these sea areas.

But, Mr. President, further action is now needed in this field. It is one thing to get the Conventions into force. It is quite another to ensure that they actually are enforced, that the standards which they set really are honoured by shipping under all flags. The primary responsibility here devolves on flag states, but we are all aware that some states are not willing or not able to ensure that their shipping is fully up to standard. Fortunately, the Conventions provide for enforcement to be carried out also by port states in relation to shipping of all flags using their ports. And, of course, Mr. President, everyone's shipping does use our ports. The dangerous press of marine traffic in our waters exposes our countries to a serious and constant pollution risk; but the other side of the coin is that this mass of shipping is visiting our ports, and while it is there the Member States are entirely at liberty to ensure that it meets the safety and pollution prevention standards set by the central safety Conventions which I have mentioned.

I believe that the Community can play a major role in port state enforcement. The Commission has already proposed to the Council that the Member States should regard as binding the terms of two IMCO Resolutions on port state enforcement of the Load Lines, SOLAS and OILPOL Conventions. The Council has not yet accepted this proposal; I hope it will do so quickly. But the fact is that stronger measures still are urgently needed, because the Council Decision in question will simply require

Member States to carry out port state enforcement on the lines set out in these Resolutions to the extent that they do port state enforcement at all. What I believe we need is a further proposal designed to ensure an adequate quantum of port state enforcement by the Member States, and to ensure that the enforcement activity is carried out in a reasonably consistent way in each Member State. The Commission is working on a proposal of this kind now, and I hope that we shall be able to present it to the Council shortly.

We shall be having further informal discussions with Member State experts before finalising our ideas, but what we have in mind at the moment is a Directive which would first of all set a basic objective for the Member States: that they should, in accordance with the Directive, so organise themselves as first of all to identify every sub-standard ship entering their ports, and then to ensure that, before it leaves the Community, it is brought up to the standards set in the IMCO and ILO Conventions which are in force at any given time. In more detail, we have in mind to suggest that the Member State authorities should examine the ship and crew certificates of incoming ships on a hundred per cent basis, and should follow up, in accordance with the Conventions, every case where "clear grounds" exist for believing that there is an infringement of the Conventions. Ships found to be sub-standard would be required to remedy the deficiencies before leaving the Community. There would also be provisions to maximise co-operation between Member States, notably in regard to the exchange of information about defects found.

I do not want to go into more detail about this proposal tonight, Mr. President, because our ideas are still evolving. I will simply say that I believe that the Community can and should convert itself into an area which sub-standard ships will enter at their peril. The United States has already shown what can be done by a firm approach here; we can and should do the same.

I mentioned earlier, Mr. President, that one of the Conventions which the Council has recommended the Member States to ratify is the IMCO Convention on Standards of Training and Watchkeeping. And here we come to the human element and to the role of this distinguished Institution. The Commission has noted that there is pretty much a consensus about the major part played by the human factor, or human error if you like, in shipping casualties and polluting incidents. This suggests that the training and education of seafarers, and the recruitment of the right people in the first place, is of immense importance, whether for the deck or the engine room or, indeed, both at once. It is of course much more difficult to check whether the crew is sub-standard than to check whether a ship is sub-standard; much more has to be taken on trust, and we therefore have to rely much more on and place our hope in the basic training which seafarers have received. Your Institute, it seems to me, performs an essential role here in fostering a professional spirit, the highest possible standards and a keen^{sense} of responsibility in engineer officers. Thus you play an indispensable part in promoting shipping safety and preventing marine pollution.

Mr. President, the Commission depends on its contacts with all organisations concerned with shipping for the input of information and opinion which it needs in order to be able to make sensible proposals for action. We may seem to live in an ivory tower in Brussels, but in fact we don't, or at least we don't wish to. Our door is always open, and if your Institute feels that it has something to say to us, whether alone or together with your opposite numbers in other Member States, about shipping safety, pollution prevention, seafarers' working conditions or any other topic of mutual interest, we shall always be glad to hear it. I hope I have said enough to show that within the field of transport, shipping is one of the fields to which the Commission is giving priority. Much has been done; much remains to be done. Mr. President, your Institute can help us to do it well.
