

## CHAPTER 18

# SHIPPING POLICY AND GLOBALISATION; JURISDICTIONS, GOVERNANCE AND FAILURE

*Michael Roe\**

### 1. INTRODUCTION

The shipping industry is characterised by a number of very specific features which make it unlike almost any other. In particular it is inherently mobile – both physically in that ships can be moved with relative ease to a very large number of world locations – and in terms of capital, which involves no physical movement of assets necessarily, but a transfer of ownership, registration or other features to wherever makes most financial sense. These two features are intrinsically linked in that the capital mobility of shipping is enhanced by the physical mobility of the assets which subsequently makes any sort of compulsory national, state association very difficult.

These two features of mobility are also fundamentally important when it comes to the issue of policy, and in this chapter we shall be examining the derivation of shipping policy and in particular the relationship between shipping policies at different levels of jurisdiction of origin and imposition – international, supranational, national, regional and local (Roe, 2007, 2009c). The issues of mobility outlined above are the major feature of shipping which drives policy at all levels, although not to the exclusion of a large range of other factors which needs to be assessed.

This chapter will also place shipping policy in the context of the growth of globalisation and its close relations, foreign direct investment and strategic alliances discussed in the recent works of Frankel (1999), Ryoo and Thanopoulou (1999), Thanopoulou *et al.* (1999), Peters (2001), Randay (2001), Sletmo (2001), Slack, Comtois and McCalla (2002) and Selkou and Roe (2004) – developments which the shipping industry has experienced often before any other and which are characteristic of the complexities that surround governance policy relationships in the industry. These issues have been further developed by Roe in a series of publications (2008a, 2008b, 2009a, 2009b, 2009c).

This chapter is structured into seven sections. The second section outlines the development of research into shipping policy and examines the range of different

\*The Business School, University of Plymouth, Plymouth, UK. Email: [mroe@plymouth.ac.uk](mailto:mroe@plymouth.ac.uk)

## 2 Shipping Policy and Globalisation

studies that have taken place across the world and the common themes that have emerged.

The third section provides a model of the major themes that underlie shipping policy today and which are foremost in determining the detailed policy initiatives that have emerged in the late twentieth and early twenty-first centuries. It also incorporates the development of a new model of shipping policy that attempts to represent the more important influences that drive and direct policy-making at each level.

Using this new model, the fourth section introduces the concepts of spatial policy levels – international, supra-national, national, regional and local – and provides examples of activities at each jurisdiction. Here the specific problems associated with deriving effective and inter-linked policies for the shipping industry become apparent.

Policy can never emerge in any sector without interest groups – government, industry, employers and employees, pressure groups etc – and shipping is no exception. Section five looks at the role of interest groups using the model provided by Aspinwall (1995) and other work by Lu (1999) and how these affect the interrelationships between the spatial levels of jurisdiction that exist.

Section six follows the work of Ledger and Roe (1993) and examines the contextual factors that affect the industry in the derivation of policies; this further illustrates the problems of linking policies in shipping between the jurisdictional levels outlined in section three.

The final section incorporates the role of globalisation and its impact upon shipping industry policies. In particular it focuses upon the problems of reconciling the linkages between the jurisdictions of policy that exist and an industry that works outside of many of the constraints that these policy jurisdictions assume. The chapter ends with a summary of the issues and conclusions including an assessment of future policy issues.

## 2. SHIPPING POLICY – A SPATIAL PERSPECTIVE

Shipping policy is an area of research that has attracted interest over many years focusing on issues from subsidies to safety, the environment to employment, from taxation to inter-modalism and more. The key theme of this chapter is the problems inherent in linking together the different spatial levels of policy-making across the variety of jurisdictions that exist. The discussion deliberately focuses upon the international, supra-national and national levels as attempting to include regional and local issues would prove to be too specific and complex.

The literature noted here is not exhaustive but indicative of some of the trends in spatial shipping policy and jurisdictional concerns that exist. The international jurisdiction for policy-making has been well documented and important works include those by Gold (1981) and Li and Cheng (2007) on the international maritime sector in general, Schrier *et al.* (1985) on liberalisation in shipping, Benham (1994) on UNCTAD's role in the shipping sector, Moyer (1977) and his analysis of shipping subsidies, Frankel's works (1989, 1992) on shipping, logistics and ports, Yannopoulos (1989) on shipping policy in general, Ademuni-Odeke's (1984) work on protectionism and shipping, Li and Wonham's (2001) discussion of the specific policy issues relating to safety, and the earlier seminal work by Goss (1982).

Examples of work at the supra-national level can be found in the extensive literature concerning the European Union including the seminal works by Bredima-Savopoulou

and Tzoannos (1990), Wang (1993), Hart *et al.* (1993), Peeters *et al.* (1995), Aspinwall (1995), Urrutia (2006) and Tongzon (2007) and the journal articles by Van Der Linden (2001), Paixao and Marlow (2001) and Marlow and Mitroussi (2008). In addition, the over-arching supra-national issues and their conflict with national priorities are discussed in Brooks (2000) in terms of liner shipping policies and the relationship between the USA, Canada and the EU. There is also a large number of other publications which dwell on the specifics of policy at the EU level and the complexities of imposing such policies on nation state members who may or may not be willing to co-operate. Aspinwall's work here is especially significant and will be referred to later in some depth.

In Eastern Europe, the work by Ledger and Roe (1995) and Roe (1998, 2007a, 2007b) dominates the discussion of shipping policy issues in a framework where there is no overriding authority (unlike in the European Union) but where regional commonalities are sufficient to suggest that a supra-national consideration of policies and policy implementation is appropriate. The authors stress the difficulties of introducing common-themed policies for the distressed shipping industries of Poland, Romania, Bulgaria, Ukraine, Russia, Latvia and Lithuania in the light of common approaches to EU accession and the need to meet a set of widely applied rules and requirements is clearly apparent. This is particularly the case where national demands (and even regional and local ones within a country) conflict with the more over-riding needs and demands of the newly adopted supra-national authority.

Other pseudo supra-national policy work is typified by that of Hawkins and Gray (1999, 2000), Sun and Zhang (2000) and Hawkins (2001) for the Asia-Pacific region which again lacks a supra-national authority to give it coherence and even less so than Eastern Europe, suffers from the absence of an over-riding driving force of potential EU membership which acts to compel national policies to work with each other and at different levels. Similar work in the Caribbean is provided by Wilmsmeier and Hoffmann (2008).

At a national policy-making level the published work is extensive and only a few sources can be noted here. In terms of UK policy much has been produced following the introduction of a tonnage tax system in 2001 – an issue itself that raises conflicting views with respect to the requirements of the EU, relations with neighbouring countries and the international (for e.g. through the effect on flags of convenience) and regional (for e.g. employment) implications. Particularly significant publications include Brownrigg, Dawe and Mann (2001), Selkou and Roe (2002) and broader policy discussions can also be found in Colvin and Marks (1984), Gardner (1999), and Gardner, Naim, and Obando-Rojas (2001).

Discussion concerning policies and policy-making in other countries is extensive. For example, Poland receives attention from Walenciak, Constantinou, and Roe (2001) and Wrona and Roe (2002), Taiwan from Lu (1999), the USA from Whitehurst (1983)<sup>3</sup> Iran from Mirmiran (1994), the USA from Sletmo and Williams (1981), Nigeria from Omosun and Nasiru (1987), Japan from Goto (1984) and Managi (2007), Turkey from Yercan (1999), Yercan and Roe (1999) and Barla *et al.* (2001), China from Flynn (1999), and Sun and Zhang (1999), and Korea from Kokuryo (1985), Lee (1996, 1999) and Song, Cullinane and Roe (2001). There are many other discussions focusing upon other countries of the world emphasising the significance of the national level of policy-making that exists in shipping and its importance in relationship to other jurisdictional levels.

## 4 Shipping Policy and Globalisation

### 3. THE FACTORS THAT DRIVE SHIPPING POLICY

Hoyle and Knowles (1998) provide a basis for analysing the generic factors that underlie the emergence of transport policy at the end of the twentieth century. These factors can be used as a basis for understanding the development of shipping policy world wide. From there we can go on to look at the development of shipping policy under different jurisdictions before analysing the problems manifest in linking these policy levels together and in achieving a meaningful and efficient governance framework.

The work of Hoyle and Knowles was directed essentially at understanding transport activity from a spatial perspective and for this reason is particularly suited to our discussion, although they were not considering policy making, governance and policy applications, nor the shipping sector specifically. Nevertheless, the structure they employed is useful consisting of five main factors that can be applied to the maritime sector:

- (1) *Historical perspective.* The shipping sector is partly at least, directed by its past, either immediate or more distant. Thus traditional trade routes, port locations and maritime seats of power are all established features of the market place. Shipping policy tends to emerge from, or be associated with, the established network of trade patterns, centres of activity and centres of power. Any policy development – regardless of where it emanates from – has to take this into account as well as any changes to the world maritime scene such as the emergence of new routes, ports or maritime powers. Services associated with exploitation of North Sea oil, the development of the Port of Fos/Marseille and the rise of China in world shipping are all recent examples.
- (2) *Nodes, networks and systems.* The shipping sector is essentially a combination of nodes (ports), networks (trading routes) and systems (the organisation and infrastructure that connects the other two items together – including communications, financial agreements, a legal framework, shipbrokers, freight forwarders etc.). Both governance and policy making ultimately is about all these elements and the environment it creates for them. This might be to encourage activity in a certain location, trade or at a certain time (e.g. favourable tax regimes in EU Member States for shipping), or to control unwanted activity (e.g. sub-standard environmental or safety practices). Policy-makers have to understand the series of inter-linkages that exist if the policies they create are to be specific, meaningful and to achieve what they are aimed to do. A suitable governance framework makes these linkages possible.
- (3) *Modal choice, intermodalism and flexibility.* Shipping works in a highly competitive environment, not just within the industry itself but also in competition with other modes. In Europe, short-sea shipping faces intense competition from trucking across the whole continent, whilst even international rail services are increasingly competitive, as developments in East European infrastructure continue and new investments such as the Channel Tunnel and the Oresund link have become fully operational. Policy-makers need to have a full view of the choices available to shippers. In addition, the concept of intermodalism continues to expand with the support of the EU, so that shipping is now commonly seen as one link within a complex intermodal chain – including trucks and trailers on ferries, rail ferry operations, containerised services and the multitude of specialist facilities needed to ensure an adequate inter-linkage.

## Shipping Policy – Spatial Levels Of Origin and Implementation 5

Policy making in shipping has much to do here to ensure that developments are co-ordinated and that the shipping industry plays its full role.

- (4) *Deregulation and privatization.* Both deregulation (the reduction or removal of state control and influence) and privatisation (the partial or complete transfer of ownership from the state to the private sector) have been major trends world wide in many economic sectors for some years now. Shipping is no exception. The substantial developments in Eastern Europe have resulted in many examples of both trends, but elsewhere the privatisation of ports, state shipping companies and ancillary activities coupled with the attempts by the EU to reduce state interference through relaxing cabotage rules and reducing state subsidies have been apparent also. Shipping policies have reflected these trends since the 1980s and will continue to do so although paradoxically, the need for tighter safety and environmental controls and the desire to see reduced state interference has raised government involvement at all jurisdictions in policing the industry's activities.
- (5) *Holism.* Shipping policies have to recognise that shipping is part of a much wider activity that is closely linked with a multitude of other economic, social, political and technological developments which both influence the shipping environment and are influenced by it. Thus shipping policy-makers have to understand that any changes, for example, in financial policy in the EU will have substantial impact upon the shipping investment climate and may necessitate further action incorporated into shipping policy measures. Shipping is an holistic activity that cannot be separated out from the complexity of the real world but this makes policy making both difficult and at times, very slow.

### 4. SHIPPING POLICY – SPATIAL LEVELS OF ORIGIN AND IMPLEMENTATION

Policy in the shipping sector both emerges and is applied to the industry at different spatial levels. These are indicated in Figure 1 which attempts to summarise the shipping policy framework and the factors which influence the policies that emerge and the players involved in its development. They can be divided into five levels – in many ways a convenience as in real life there remains overlap between them – but at the same time there are clear distinguishing features of each which are significant for policy derivation and implementation. These different spatial policy levels (or jurisdictions) and the problems of co-ordinating and making consistent their policy initiatives is the central theme of this chapter and has been identified in earlier work by Cafruny (1987, 1991), and Aspinwall (1995). The following discussion focuses on the relationships between these levels and the difficulties this sometimes presents.

At the highest jurisdiction there are *international policies* derived by international organisations which should, at least in theory, provide an over-arching structure for the policies derived at lower levels. In the shipping sector, the most prominent international policy-making institutions include the United Nations International Maritime Organisation (IMO), responsible amongst others for policies towards safety, security and the environment in shipping generally, and the Organisation for Economic Co-operation and Development (OECD), which is made up of the developed countries of the world and which is active particularly in shipbuilding policy and issues relating to

## 6 Shipping Policy and Globalisation

efficiency worldwide. In each case, there is no compulsory legal requirement for nation-states to abide by their policies and no direct powers of law-making rest with these organisations, but at the same time, membership by individual (and powerful) nations is extensive and requires that the policies and recommendations are followed. Hence in terms of influence they are some of the most significant organizations.

The policy framework set out at the international level provides the general agenda for that at the next – *supra-national* – which is typified by that of the European Union (EU) which generates policies that are applied to all Member States and in the case of the EU, is backed up by laws that are normally superior to national (Member State) laws where there may be conflict (Brooks and Button, 1992; Kiriazidis and Tzanidakis, 1995; Paixao and Marlow, 2001; Urrutia, 2006; Marlow and Mitroussi, 2008).

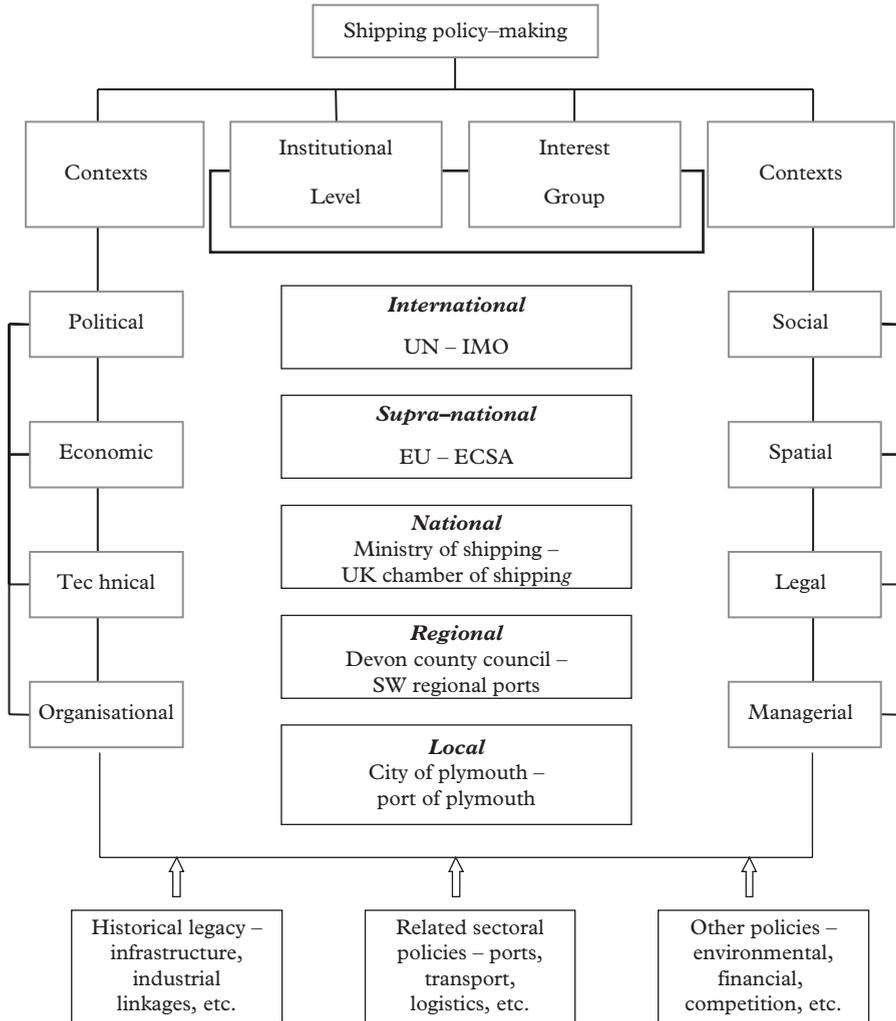
Alternative supra-national regimes include the North America Free Trade Association (NAFTA) with a series of maritime related policies but no lawmaking powers, and in historical terms, the Council for Mutual Economic Assistance (CMEA) which represented the countries of the Former Soviet bloc but which again had no legislative powers (although considerable persuasive ones) (Chrzanowski, Krzyzanowski and Luks, 1979; Ledger and Roe, 1996).

Taking the EU as an example, the policies which emanate from the deliberations of the Commission (DGVII), Council of Transport Ministers and the Parliament are normally designed to inter-act with international policies of (for example) the IMO, so that recent EU legislation on double-hulled tankers and other environmental and safety measures have avoided any conflict between jurisdictions. This may not necessarily be the case where the interests of the EU conflict with those of the wider global or national (Member State) framework and it is clear that divergences of policy-making from inter-jurisdictional consistency will produce tensions that are hard to reconcile. The agreement of policy over implementation of the UNCTAD 40/40/20 rule for liner shipping by the EU in 1979 reflected these tensions as the EU's commitment to free trade and liberalisation was tested by UNCTAD's demands for market interference on behalf of developing countries. An agreement was reached but the problems of achieving consistency of policies across spatial boundaries where the agendas were fundamentally different were apparent. Very recently, problems continue in relationships between the EU (supranational) and the IMO (international) over representation and policy-making reflecting greater governance inadequacies that exist.

This discussion of supra-national policy-making also needs to refer to the problems of compatibility with national policies, particularly with reference to the EU and the difficulties experienced in reconciling EU policies on (for example) state aids and cabotage with the desires and agendas that exist in individual member states. Aspinwall<sup>8</sup> referred to the prolonged discussion that took place before Greece agreed to the opening up of cabotage markets within the EU to all ships of the EU, an agreement that eventually contained safeguards for socially vulnerable markets and extended delays in implementation to give the industry time to adapt. A good example of this was the application of cabotage rules to the Greek Island trades where intense seasonality of demand could lead to some islands losing services altogether in winter as European shipowners from countries other than Greece creamed off summer profits. These concessions diluted the ambitions of the EU to open all shipping markets to all ships and operators that were both safe and environmentally friendly and reflected a divergence in policy ambitions between supra-national and national interests. The provision of shipping state aids have presented similar difficulties and the EU Commission has compromised on its leading

## Shipping Policy – Spatial Levels Of Origin and Implementation 7

Figure 1: The context for shipping policy-making



principle of free markets and liberalisation so that some state aid remains in place at a national level, albeit controlled in amount and characteristics.

Figure 1 also notes the existence of two more levels of policy-making in the shipping sector upon which we shall not dwell here but which also play a part in the conflict between jurisdictions – *regional and local*. These two spatial levels, typified by regional governments (such as Devon County Council in the UK) and city governments (such as Plymouth in the UK) once again should derive policies that are compatible with the levels above them at national, supra-national and international level as not doing so

## **8 Shipping Policy and Globalisation**

leads to problems of implementation. Thus a regional authority within the EU might find problems in keeping to EU policies limiting state aid to shipping when the local, dominant ship operator needs regional support to remain financially solvent. Similarly, local city ports need to match their policies with the regions where they are located but at times political differences can interfere with this process.

## **5. INTEREST GROUPS AND STAKEHOLDERS**

The discussion above has focused upon the role of the state at each spatial level in the formation of shipping policy and has emphasised how important but also how difficult it is for these different levels to work together and to ensure that policy created at one level is co-ordinated with that at each of the others to generate meaningful and consistent initiatives.

Figure 1 also includes examples of interest groups or stakeholders that have a significant role to play in the creation and dissemination of shipping policy. These interest groups are those parts of the shipping industry with an active position in the sector and who are both the generators and those most affected by the policies that are created; examples of them have been noted above. Thus at the international level, the International Maritime Organisation (IMO), Greenpeace and major charities are significant interest groups which both create and absorb international shipping policy measures. At the supra-national level, an organisation such as the European Community Shipowners Association, based in Brussels Belgium, and representing shipowners throughout the EU is a significant interest group that places pressure upon EU and national policy-makers to take account of their views. At a national level, the UK Chamber of Shipping plays a similar role in relation to the UK government, but also in discussion with other interest groups (e.g. the European Shippers Council or the UK seafarers labour union). Similar relationships exist at local and regional level for port authorities, environmental pressure groups, local truck haulier associations etc. each of which has a voice feeding into the policy-making process.

These voices act across jurisdictions – thus the UK Chamber of Shipping might input policy initiatives directly to DGVII of the EU – and not just to their respective spatial policy-makers (in this case the UK government ministry responsible for shipping – the Department for Local Government, Transport and the Regions) or those directly above or below. The situation thus gets increasingly complicated as consistency and compatibility vertically up and down policy-making bodies at state level now has also to function horizontally with interest groups and also diagonally with groups at different levels. There is also a very large number of interest groups for each policy level and issue, each inter-relating with each other to a lesser or greater extent either in opposition or collaboration. To add to the complexity, attitude can also vary with the issue concerned.

## **6. THE CONTEXTS**

The final piece of the complex puzzle which makes up the shipping policy and governance model is provided by the contexts within which all these policy initiatives and relationships must operate and which in turn affect their development, potential

and success (or otherwise). A number of these can be identified following the work of Ledger and Roe (1996). They include:

- (1) *Economic*: refers to the impact of economic factors upon the derivation and characteristics of shipping policy for any particular regime (international, supra-national etc.). Thus it might well include the impact of the introduction of the Euro across EU states, the general depressed condition of the world economy in 2008–2009, the specific implications of the state of the scrap market upon the shipping industry and the development of free markets in Eastern Europe. It is a significant but wide ranging context that is difficult to define and understand its full and detailed implications but which is fundamental to shipping policy at all jurisdictions.
- (2) *Legal*: refers to the legal framework within which the shipping sector has to operate. This will include national laws and regulations as well as those of a supra or international nature – thus shipping operators based within countries within the EU or operating to and from EU ports are required to meet not only the legislation relevant in their home state but also the multitude of EU regulations and directives that are imposed upon the sector. These include, for example, the large number of pieces of legislation referring to safety in the ferry industry, bulk carrier safety, competition rules for liner shipping and rules for cabotage operations. The competition rules for liner shipping are a good example of where different legal regimes apply to the same industrial sector dependent upon the spatial level that is considered. There are domestic laws in, for example, the United Kingdom, that control numerous shipping activities and impacts relating to the local environment (local government pollution controls), port safety (port regulations), seafarer employment (income tax and social security rules) and taxation (UK tonnage tax). The US legal regime will also become relevant for liner shipping companies active in US trades as it regulates various aspects of liner competition. However, at the supra-national EU level there are further regulations that apply to competition between liner operators, agreements through consortia and conferences and the penalties that can be applied by the European Commission (including the once infamous 4055/4058/86 Regulations which included 4056/86. This provided for the existence of liner conferences despite their clear violation of the Treaty of Rome. By 2009 this had finally been removed but its existence for over 20 years was a persistent anomaly). Meanwhile at an international level, the industry is subject to the rules and recommendations of the IMO in terms of ship safety, seafarer training and environmental protection.

The legal framework is constantly changing at each level as a response to a myriad of social, political and economic pressures and it is within this context that some of the more important failures of co-ordination between jurisdictions are evident.

- (3) *Managerial*: refers to the relationship of the internal structure of shipping companies with the policy framework that is imposed. Thus the size and complexity of shipping organisations and the changing range of functions that shipping companies have incorporated has an impact in terms of policy-making and its implementation. The latter point is particularly important as shipping companies increasingly integrate vertically, absorbing logistical

## 10 Shipping Policy and Globalisation

functions traditionally carried out by separate organisations but now incorporated within one company structure. Thus Maersk's interests in the full range of logistics from shipping to trucking and agency work to air transport has implications for policy-makers and vice versa in that it is no longer shipping policy which is solely important but a range of policies from competition to industrial, transport to regional development. This increase in the range of functions undertaken by traditional shipping companies adds to the complexities and has also increased pressure on the industry to conform to a wider range of policy initiatives. The problems faced by the TACA operators in liner shipping on the North Atlantic in the 1990s is evidence of this in that they fell foul of competition policies of the EU in the area of inland trucking (being accused of being anti-competitive for whole transport journeys and not just shipping links as permitted under Regulation 4056/86 of the EU) rather than any specific shipping offence. It is only whilst the economic and logistical benefits of vertical integration for shipping companies remain greater than the potential complexity that comes with it (and the risks of falling foul of legislation) that this trend will continue.

A further example of complexity that changes within the managerial context can bring includes conflict within the liner industry again on the North Atlantic between the regimes of the EU and the FMC in the USA with their differing views on the permissible nature of liner conferences and also the option of including inland transport within overall conference legislation.

- (4) *Organisational*: refers in particular to the structure and characteristics of the shipping industry as a whole rather than company internal activities and two important trends here stand out in relation to policy-making at all levels – privatisation and globalisation. Following the demise of the Soviet empire (and with it the role of state-owned shipping companies) and combined with the trend of a general divestment of state companies around the world in all sectors, the shipping sector as a whole has seen a considerable move towards private ownership. Thus the significance of state control has lessened as governments become distanced from company decisions, finance and operations. At the same time there has been a consequential increase in supra-national and international policy-making in the sector to control the external effects of the industry as it finds itself released from public sector obligations. This is evidenced in the increased activity in shipping policy-making of the EU, the FMC and the IMO in terms of safety, environment and competition with the objective of protecting public interests in areas where the market has no interest and there is no natural market mechanism to ensure that high levels of safety, low levels of environmental pollution and healthy competition between players in the shipping market are maintained. One problem that emerges here between spatial policy-making levels is that commonly it may be advantageous for competition policy (for example) to be neglected at a national level as this may ensure a strong international presence for a domestic fleet (for example through subsidy in many forms), whilst it is being strictly enforced at a supra-national level – for example at the EU level where subsidies are strictly controlled.

In terms of globalisation, this has changed the characteristics of the shipping industry, which although has always operated at an international level, until recently was much more constrained by nationally The shipping industry

is inherently global and able to take advantage of flexibility and mobility in its use of labour, finance and services almost at will. The result is a series of problems for policy-makers as the industry migrates from one national (flag) regime to another, trading off concessions between national regulators. Thus, the UK shipping company P&O was a major bulk, ferry and liner operator world wide for many years but more recently has found it necessary to enter global strategic alliances and to merge its liner operations with Nedlloyd of the Netherlands. Policy-making in the shipping sector is directly affected by such moves particularly at the national level as national policies in the UK and the Netherlands may conflict (for example in terms of subsidy) causing at best, confusion within the sector. In addition the increased impact of flags of convenience and international registers confuses the picture further as nationally based companies have to work more and more within an international framework whilst international and national policies towards training, labour and employment for example, may clearly conflict with the requirements of the international regime.

- (5) *Political*: refers to the political context from which all shipping policies emerge. It is never the case that a single economic, technical or legal framework stimulates and controls shipping policy formulation. In fact, the political acceptability of any particular policy is commonly the most significant context of all. Sizeable political changes (for example those that occurred in Eastern Europe from 1989–1992; the Arab-Israeli conflicts; or the effects of the World Trade Centre incident in 2001) are often of less significance than the political relationships between players within and adjacent to the industry. A fine example, described in some detail by Aspinwall, refers to the political relationship between the European Commission (the executive body of the EU) and the Council of Ministers (the main legislature of the EU) concerning the introduction of Regulation 4056/86. This regulation effectively permitted the existence of liner conferences for shipping operators working into and out of EU ports, something that under the competition rules within the Treaty of Rome should be illegal. The Commission's view was clearly that this should not be permitted but they were ignored by the Council in 1986 who, under pressure from the shipping industry and acting in a political rather than a legal or economic context, legislated to secure their existence. In this example an internal political conflict resulted in policy that conflicts with all other industrial sectors within the EU (none other has such an exemption from competition law) and which has presented a series of difficulties in co-ordinating different policy level initiatives since then. Other political pressures which have been significant at EU level in overtly affecting policy-making include the concessions granted to Greece over the delay in imposing cabotage laws and the continued existence of subsidies for shipping operations against all principles that the EU tries normally to uphold. Such political concessions do nothing to create a consistent and meaningful policy framework for the sector as a whole evidenced in the continuing friction between the European Shippers Council and the European Shipowners Association over shipping conferences and consortia and the maintenance of higher freight rates that the former believe is a consequence.
- (6) *Social*: refers to a multitude of complex relationships between the shipping industry and the society in which it operates. These issues include the significance of maritime employment and policies which promote or reduce

## 12 Shipping Policy and Globalisation

it – a major strand within policy-making at local, regional, national and supra-national levels in particular. Much recent debate has focused within the EU upon the introduction of new tax regimes by nation states for shipping, partly at least aimed at encouraging or sustaining employment levels. In addition there have been widespread policy initiatives concentrating upon seafarer training, conditions of service and the environment all with strong social implications. Certainly at all levels, the social implications of a particular policy have to be noted by politicians when they choose policy initiatives as the relationship between the two is close and the impact can be sizeable.

- (7) *Spatial*: refers to the fact that shipping policy is not only derived at a variety of spatial jurisdictions as we have seen – international, supra-national, national, regional and local – but is also affected by a variety of spatial issues. These might include issues relating to peripherality and cohesion – a major theme within the EU – whereby the disadvantage felt by peripherally located regions and states (for example the accession countries of Eastern Europe; or the economically poor area of southern Italy) can be reduced through policies to promote good transport links including those by ship and through ports. By improving these links, the friction caused by a peripheral location can be reduced. Other spatial influences include promotion of short-sea shipping in Europe to reduce dependence upon pollution-generating road transport and various regional policies to improve the lives of island based communities. The latter is evidenced in the EU through the cabotage Regulations which even after the liberalisation of these trades, allow countries to protect some domestic routes for social reasons. A multitude of other spatially related issues are important to shipping – including regional policies to develop economically backward areas and the consequent industrial and commercial impacts, the effects of the emergence of new countries including those of Russia, Yemen, Bosnia, Croatia, the Ukraine, and the Baltic States of Latvia, Lithuania and Estonia and their relatively important shipping fleets and/or port facilities and the construction of new port facilities including for example those for oil export in the Baltic which recently has seen new developments in Russia, Latvia and Lithuania all affecting the required geographical focus of policy measures to promote or protect various shipping related activities or impacts
- (8) *Technical*: refers to the changes in technical facilities and methods which have direct and indirect effects upon the shipping industry. Policies have to take account of these changes and this includes a multitude of new safety and environmental regulations at international, supra-national and national level to accommodate the growth in ship size both in terms of container and bulk vessels. Changes in ferry design and the need for improved technical and safety rules have stimulated further regulation especially within the EU and following the *Herald of Free Enterprise* and *Estonia* disasters. New port facilities and changes in modal choice also have their effect and the continued growth in road transport and the construction of new pipeline facilities have implications for policy-makers in the shipping sector. The EU's continued promotion of intermodalism also has impacted technically upon the shipping policy sector.

These eight major contexts provide the external framework within which all shipping policy – at whatever level – has to be placed; policy-making which ignores their influence

has no chance of success. The relative influence of each context will be dependent upon the spatial level and the issue involved as well as a host of other inter-connected issues but undoubtedly in the very large majority of cases, each context has a significant role to play. Some are ever-present and always central – particularly political issues, but also the relevant legal framework and the economic relationships that exist between shipping and its broader setting.

In addition, shipping policy cannot ignore the wider context in which it has to be introduced and implemented. Thus shipping policy at all levels has to accept that there are other policies – including industrial, financial, environmental, competition, infrastructure, energy and so on – with which it must co-ordinate and be aware of. Failure to do so again results in conflict between policy-makers and other players within the shipping sector and therefore ineffective policy-making. In addition, shipping policy makers have to recognise the role of other transport modes and the fact that policies for one mode may conflict with that for another (for example, promotion of road transport through road building and subsidised taxation for trucks has an inevitable impact upon the short-sea shipping industry). Clearly and ideally, the separate modal policies would be integrated into one whole, but this is often made difficult as there remains competition between modal interests and structurally these policies commonly emanate from different government ministries. Meanwhile the full range of stakeholders and interest groups need to be accounted for as players in the policy-making game. Finally, shipping policy if it is to be effective, has to be aware of its inheritance in terms of industry structure, ownership, tradition and importance. These in turn will affect its role and potential in terms of policy. All these issues manifest themselves through the governance framework that is in place for shipping policy-making.

## 7. SUMMARY AND CONCLUSIONS

This discussion of shipping policy has focused in particular upon two features – the complexity of the influences that determine both its character and success, and the significance of ensuring that there is compatibility across all spatial levels if policies are to be effective. There is nothing more likely to inhibit the success of shipping policy initiatives than to have conflicting policy ambitions at say, national and supra-national levels – something for example that has characterised the industry in conflicts between Greece and the EU over cabotage trades, and also between the USA's FMC and the EU over liner conferences and their operations on the North Atlantic.

This consistency across levels has to be maintained in the context of policies emerging in other areas as well (for example the environment and economy) or else conflict will again emerge which will effectively prevent the achievement of the objectives that the policies are aimed at. There are many examples of countries promoting both short-sea shipping through tax concessions as well as trucking, both operating within the same markets in competition with each other. These conflicts of interest that occur regularly within the shipping policy arena have been made more significant and more difficult to resolve with the increased globalisation of markets and the impact that this has had upon the already highly internationalised shipping industry and its increasing moves towards international joint ventures and strategic alliances. In effect, it is now only at an international level that shipping policy can ever be truly effective. Thus the EU may have ambitions to open up markets and insist upon high environmental

## 14 Shipping Policy and Globalisation

and safety standards for shipping but is prevented from achieving these ideals and implementing appropriate policies because to do so would destroy EU shipping fleets within a global context – a consequence that would be politically and socially unacceptable. Thus the EU compromises upon issues such as flags of convenience (which in many ways it should welcome as a consequence of a free market) by allowing member states to subsidise their own fleets through low taxation regimes compared with other industries – thus breaking their own Treaty of Rome competition principles. The very international and mobile nature of shipping makes this inevitable. Similar compromises can be seen in terms of liner shipping, cabotage and manning rules. Meanwhile, Port State Control offers an interesting example of where the EU has achieved much of what it wishes to promote within an international framework but at supra-national level: – by enforcing high standards upon ships of all nationalities entering EU ports, safety and environmental standards across the EU are maintained even where the ships concerned are operated under a legal regime outside of the EU. Of course this has little impact upon vessels that never enter EU ports.

At the international level (for example the IMO) it would in theory be possible to achieve agreement across all nations for rules that then could be universally applied at all spatial levels, right down to local. As the analysis in this chapter suggests, due to the complex and often conflicting relationships between the different players in shipping and the various spatial levels of shipping policy, such agreements are difficult (if not impossible) to achieve and conflicts between policies imposed at differing levels remain and will do so whilst nations, ship operators, local interests and others see benefits in imposing their own policy initiatives. The globalisation of a complex and highly mobile industry characterised by excessive international interests and heavily entwined with other sectors – as shipping is – makes policy-making a frustrating and difficult business but one which perhaps more than any other, reflects the complete pattern of commercial interests that exist throughout different areas of the world.

## REFERENCES

- Ademuni-Odeke, (1984): *Protectionism and the Future of International Shipping*, (Dordrecht, Kluwer).
- Aspinwall, M. (1995): *Moveable Feast: Pressure Group Conflict and the European Community Shipping Policy*, (Aldershot, Ashgate).
- Barla, M.C., Sag, O.K., Roe, M.S., and Gray, R. (eds.) (2001): *Developments in Maritime Transport and Logistics in Turkey*, (Aldershot, Ashgate)
- Behnam, A. (1994): “The future of the shipping dialogue in UNCTAD”, *Maritime Policy and Management*, 21, 1, 15–28.
- Bredima-Savopoulou, A., and Tzoannos, J. (1990): *The Common Shipping Policy of the EC*, (The Hague, Elsevier)
- Brooks, M.R. (2000): *Sea Change in Liner Shipping*, (Oxford, Pergamon).
- Brooks, M.R., and Button, K. J. (1992): “Shipping within the framework of a Single European Market”, *Transport Reviews*, 12, 3, 237–252.
- Brownrigg, M., Dawe, G., and Mann, M. (2001): “Developments in UK shipping: the tonnage tax”, *Maritime Policy and Management*, 28, 3, 213–224.
- Cafruny, A. (1985): “The political economy of international shipping: Europe versus America”, *International Organization*, 39, 1, 79–119.

## References 15

- Cafruny, A. (1987): *Ruling the Waves – The Political Economy of International Shipping*, (Berkeley CA, University of California Press).
- Cafruny, A. (1991): “Towards a maritime policy”, in L. Hurwitz and C. Lequesne (eds.), *The State of the European Community Policies, Institutions and Debates in the Transition Years*, (Boulder CO, Lynne Reinner).
- Chrzanowski, I., Krzyzanowski, M., and Luks, K. (1979): *Shipping Economics and Policy: A Socialist View*, (London, Fairplay).
- Colvin, M., and Marks, J. (1984): *British Shipping: The Right Course*, Policy Study 67, (London, Centre for Policy Studies).
- Flynn, M. (1999): “PRC maritime and the Asian financial crisis”, *Maritime Policy and Management*, 26, 4, 337–348.
- Frankel, E.G. (1989): “Strategic planning applied to shipping and ports”, *Maritime Policy and Management*, 16, 2, 123–132.
- Frankel, E.G. (1992): “Hierarchical logic in shipping policy and decision-making”, *Maritime Policy and Management*, 19, 3, 211–221.
- Frankel, E.G. (1999): “The economics of total trans-ocean supply chain management”, *International Journal of Maritime Economics*, 1, 1, 61–70.
- Gardner, B. (1999): “Investment incentives for British shipping: a further comment”, *Maritime Policy and Management*, 26, 2, 195–200.
- Gardner, B., Naim, M., and Obando-Rojas, B. (2001): “Maintaining the maritime skills base: does the government have a realistic strategy?” *Maritime Policy and Management*, 28, 4, 347–360.
- Gold, E. (1981): *The Evolution of International Marine Policy and Shipping Law*, (Lexington MA, Lexington Books).
- Goss, R.O. (ed.) (1982): *Advances in Maritime Economics*, (Cambridge, Cambridge University Press).
- Goto, S. (1984): *Japan’s Shipping Policy*, Research Report 3, (Tokyo, Japan Maritime Research Institute).
- Hart, P., Ledger, G., Roe, M.S., and Smith, B. (1993): *Shipping Policy in the European Community*, (Aldershot, Ashgate).
- Hawkins, J. (2001): “Quality shipping in the Asia-Pacific region”, *International Journal of Maritime Economics*, 3, 1, 79–101.
- Hawkins, J., and Gray, R. (1999): “Making strategic choices for Asia-Pacific shipping”, *International Journal of Maritime Economics*, 1, 2, 57–72.
- Hawkins, J., and Gray, R. (2000): *Strategies for Asia-Pacific Shipping*, (Aldershot, Ashgate).
- Hoyle, B., and Knowles, R. (1998): *Modern Transport Geography*, (London, Wiley).
- Kiriazidis, T., and Tzanidakis, G. (1995): “Recent aspects of the EU maritime policy”, *Maritime Policy and Management*, 22, 2, 179–186.
- Kokuryo, H. (1985): *Korean Shipping and Shipping Policy: Shipping Industry Rationalisation Plan*, Research Report 8, (Tokyo, Japan Maritime Research Institute).
- Ledger, G.D., and Roe, M.S. (1993): “East European shipping and economic change: a conceptual model”, *Maritime Policy and Management*, 20, 3, 229–241.
- Ledger, G.D., and Roe, M.S. (1995): “Positional change in the Polish liner shipping market”, *Maritime Policy and Management*, 22, 4, 295–318.
- Ledger, G.D., and Roe, M.S. (1996): *East European Change and Shipping Policy*, (Aldershot, Ashgate).
- Lee, T. (1996): *Shipping Developments in Far East Asia*, (Aldershot, Ashgate).

## 16 Shipping Policy and Globalisation

- Lee, T. (1999): "Restructuring of the economy and its impacts on the Korean maritime industry", *Maritime Policy and Management*, 26, 4, 311–326.
- Li, K.X., and Cheng, J. (2007): "The determinants of maritime policy", *Maritime Policy and Management*, 34, 6, 521–534.
- Li, K.X., and Wonham, J. (2001): "Maritime legislation: new areas for safety of life at sea", *Maritime Policy and Management*, 28, 3, 225–234.
- Lu, C.S. (1999): "Strategic groups in Taiwanese liner shipping", *Maritime Policy and Management*, 26, 1, 1–26.
- Managi, M. (2007): "Maritime shipping industry and productivity in Japan", *Maritime Economics and Logistics*, 9, 4, 291–301.
- Marlow, P., and Mitroussi, K. (2008): "EU shipping taxation: the comparative position of Greek shipping", *Maritime Economics and Logistics*, 10, 1/2, 185–207.
- Mimiran, S.M.R. (1994): *Iran's National Shipping Policy*, (Plymouth, University of Plymouth).
- Moyer, R.C. (1977): "Maritime subsidies: problems, alternatives and trade-offs", *Journal of Industrial Economics*, 25, 3, 53–68.
- Nasiru, I.S. (1994): *The Nigerian National Shipping Policy: Aground or Afloat?* (Plymouth, University of Plymouth).
- Omosun, A.Y. (1987): *A Consideration of the Means of Attaining the Nigerian Shipping Policy Objectives*, (Plymouth, University of Plymouth).
- Paixao, A., and Marlow, P. (2001): "A review of the European Union shipping policy", *Maritime Policy and Management*, 28, 2, 187–198.
- Peeters, C., Verbeke, A., Declercq, E., and Wijnholst, N. (1995): *Analysis of the Comparative Position of Short Sea Shipping: Development of Policy Measures*, (Delft, Delft University Press).
- Peters, H.J. (2001): "Development in global searade and container shipping markets : their effects on the port industry and private sector involvement", *International Journal of Maritime Economics*, 3, 1, 3–26.
- Randay, T. (2001): "Internationalisation and foreign direct investment in shipping: a study of Norwegian firms", *International Journal of Maritime Economics*, 3, 3, 298–317.
- Roe, M. (2007): "Shipping policy and multi-level governance", *Maritime Economics and Logistics*, 9, 1, 84–103.
- Roe, M. (2008a): "Safety, security, the environment and shipping – the problem of making effective policies". *WMU Journal of Maritime Affairs*, 7, 1, 263–279.
- Roe, M.S. (1998): *Commercialisation in Central and East European Shipping*, (Aldershot, Ashgate).
- Roe, M.S. (2007a): *Jurisdiction, Shipping Policy and The "New" States of The European Union*, Paper Presented at the International Association of Maritime Economists, Athens, Greece.
- Roe, M.S. (2007b): *European Union Maritime Policy. The Role of New Member States and the Need for a Review of Governance*, Paper presented at the International Shipping Management Forum 07, 10–11 May, Athens, Greece.
- Roe, M.S. (2008b): *State Versus the Stakeholder; The Governance of the Maritime Sector*. Paper presented at the International Association of Maritime Economists Annual Conference, Dalian, China.
- Roe, M.S. (2009a): *Policy Failure in Shipping; A Global Disaster of Epic Dimensions*. Paper presented at the 2nd International Symposium on Maritime Safety, Security

- and Environmental Protection, National Technical University of Athens, Athens, Greece, September 17–18, 2008.
- Roe, M.S. (2009b): “Multi-level and Polycentric Governance: Effective Policymaking for Shipping”, *Maritime Policy and Management*, 36, 1, 39–56.
- Roe, M.S. (2009c): “Maritime governance and policy-making failure in the European Union”, *International Journal of Shipping and Transport Logistics*, 1, 1, 1–19.
- Ryoo, D.K., and Thanopoulou, H.A. (1999): “Liner alliances in the globalization era: a strategic tool for Asian container carriers”, *Maritime Policy and Management*, 26, 4, 349–368.
- Schrier, E., Nadel, E., and Rifas, B. (1985): *Outlook for the Liberalization of Maritime Transport*, (London, Trade Policy Research Centre).
- Slack, B., Comtois, C., and McCalla, R. (2002): “Strategic alliances in the container shipping industry: a global perspective”, *Maritime Policy and Management*, 29, 1, 65–76.
- Sletmo, G.K. (2001): “The end of national shipping policy? A historical perspective on shipping policy in a global economy”, *International Journal of Maritime Economics*, 3, 4, 333–350.
- Sletmo, G.K., and Williams, E.W. (1981): *Liner Conferences in the Container Age: US Policy*, (New York, McMillan).
- Song, D-W., Cullinane, K., and Roe, M.S. (2001): *The Productive Efficiency of Container Terminals*, (Aldershot, Ashgate).
- Sun, G., and Zhang, S. (1999): “General review of the Chinese shipping policy for the contemporary era”, *Maritime Policy and Management*, 26, 1, 93–99.
- Sun, G., and Zhang, S. (2000): “Comment. The APEC future maritime policy and its evaluation”, *Maritime Policy and Management*, 27, 2, 209–213.
- Thanopoulou, H.A., Ryoo, D.K., and Lee, T. (1999): “Korean liner shipping in the era of global alliances”, *Maritime Policy and Management*, 26, 3, 209–230.
- Tongzon, J. (2007): “Determinants of competitiveness in logistics: implications for the ASEAN region”, *Maritime Economics and Logistics*, 9, 1, 67–83.
- Urrutia, B. (2006): “The EU regulatory action in the shipping sector: a historical perspective”, *Maritime Economics and Logistics*, 8, 2, 202–221.
- Van Der Linden, J. (2001): “The economic impact study of maritime policy issues: application to the German case”, *Maritime Policy and Management*, 28, 1, 33–54.
- Walenciak, A., Constantinou, A., and Roe, M.S. (2001): “Liner shipping between East and West Europe: competitive developments in the Poland-United Kingdom trade”, *Maritime Policy and Management*, 28, 4, 323–338.
- Wang, S. (1993): *European Community Shipping Competition Policy*, (Plymouth, University of Plymouth)
- Whitehurst, C.H. (1983): *The US Merchant Marine: In Search of an Enduring Maritime Policy*, (Annapolis, Nautical Institute Press).
- Wilmsmeier, G., and Hoffmann, J. (2008): “Liner shipping connectivity and port infrastructure as determinants of freight rates in the Caribbean”, *Maritime Economics and Logistics*, 10, 1/2, 130–151.
- Wrona, A., and Roe, M.S. (2002): “The Polish maritime sector under transition”, *Maritime Policy and Management*, 29, 1, 17–43.
- Yannopoulos, G.N. (1989): *Shipping Policies for an Open World Economy*, (London, Routledge).
- Yercan, F. (1999): *Ferry Services in Europe*, (Aldershot, Ashgate).
- Yercan, F., and Roe, M.S. (1999): *Shipping in Turkey*, (Aldershot, Ashgate).



A governance failure refers to any failures of governance or ineffectiveness of governance processes. Jessop argues for conceiving governance as a provider of flexibility for decision-making structures opposed to rigid state bureaucracy or market laws. From this approach failures would equate to failures of the governance structure. According to him new constellations of governance may compensate for state failure. Much of the discussion of global governance is based on the current operational structure of the world that we live in. As Thakur & Weiss (2015) explain " Thus global governance is thought to be an international process of consensus-forming which generates guidelines and agreements that affect national governments and international corporations. Examples of such consensus would include WHO policies on health issues" (WHO, 2015). The idea behind global governance is that it will aid in helping to solve any challenges within the international system.