

## EU COMMISSIONER INAUGURATES IMLI'S 13<sup>TH</sup> EU MARITIME LAW COURSE

H.E. Dr. Joe Borg, EU Commissioner for Fisheries and Maritime Affairs inaugurated the 13<sup>th</sup> IMLI EU Maritime Law Course today on the 15<sup>th</sup> February 2008.



*H.E. Dr. Joe Borg (EU Commissioner for Fisheries and Maritime Affairs),  
Justice James Allsop (Judge of the Federal Court of Australia),  
Dr. Joanna Drake (Head of Representation of European Commission in Malta)  
and Prof. David Attard (IMLI Director) with the course participants*

This intensive course offers the participants an overview of the EU Maritime Law, including the EU Maritime Transport Policies on safety and criminal sanctions in the protection of marine environment, EU's external maritime relations, rights and responsibilities of the EU member States in the maritime context, EU law on marine pollution, EU perspective regarding the international liability and compensation regimes, etc.

The inauguration ceremony was opened by the Institute's Director, Prof. David Attard who delivered a welcoming address. Commissioner Borg then delivered the following key note address:

Ladies and Gentlemen,

I am delighted to participate once again in the inauguration of this course organised by the International Maritime Law Institute. I am pleased because this not only marks the start of a very important programme in which you, yourselves will be able to disseminate best practices and stimulate discussion about different maritime activities but also because since I was last here a year ago, we have made remarkable progress in terms of designing a new and Integrated Maritime Policy for the European Union.

I therefore hope to profit from this occasion to let you know a little more about what we have been up to with a view to encouraging you to also look at this policy and the benefits it may have for your own countries and administrations. As it is also a work in progress, it also stands to benefit from the input of practitioners such as yourselves.

Scientific discoveries, huge strides in technological development, globalisation, climate change and marine pollution are rapidly altering Europe's relationship with the seas and oceans, with all the opportunities and challenges that this presents.

The Integrated Maritime Policy proposed by the Commission on 10 October last year, enables the Union to meet these challenges head-on. The policy is actually a package consisting of a Communication setting out a vision for this policy and a detailed Action Plan for the years ahead. It is the fruit of three years of intensive work, including a year-long consultation with stakeholders which revealed strong support for this initiative.

We are fortunate in that this enthusiasm has been shared by other EU institutions - including the European Parliament - and by the Member States, who endorsed the Commission's proposal at the December European Council last year.

Our policy is aimed at addressing and bringing together all inter-related maritime activities: fisheries, shipping, trade, regional development, research, employment, environment, relations with third countries and so on. It is a policy that will feed from, and into, other Community policies. This integrated approach to decision- and policy-making in the maritime sphere radically alters the way we have done things so far. This is because we cannot continue to manage the seas and oceans along purely sectoral lines any longer.

It also looks at the sustainability of our oceans – a fact which is paramount given that they serve as the basis for all our maritime activity and serve a crucial role as the world's climate regulator. We can no longer ignore the fact that the oceans and seas are coming under more and more pressure. Work has been underway on this front within the Commission for some time and we are fortunate to have in place the recently adopted Directive for the Protection of the Marine Environment which will serve as the environmental foundation of our policy.

To say this does not mean that I am not aware that there are inherent tensions between the economy and ecology. However what I do believe is that the two are not mutually exclusive. Prosperity and jobs *can* go hand in hand with preserving the environment – in this case the marine environment. Yet to do this, we need to think outside the box. We need to tap into new technologies and find innovative solutions that will allow the economy and ecology to sit comfortably side-by-side. We are fortunate that proof that this is possible already exists.

We are also fortunate that the resounding support that we have received for this new policy direction has already brought about results. The Commission has, for example, already started delivering its Action Plan. We have adopted a strategic Communications on Ports and another on Sustainable and Competitive European Tourism. With the aim of better regulating maritime transport, we have also opened consultations on a European Maritime Transport Space without barriers.

Offering quality jobs in the maritime sector is another priority. To this end, we are seeking to promote maritime clusters by bringing together not only different enterprises, but also different sectors and stakeholders in the European maritime community to develop synergies between their activities. Clusters have already proved to yield beneficial results contributing enormously to better quality and higher standards for European maritime products and services, as well as boosting employment and the sustainability of the maritime economy overall.

We are also reflecting on the training and certification of seafarers and taking a closer look at the labour conditions for those working on board. One specific project we have put forward, and which has received wide support, is the development of a Certificate of Maritime Excellence to enhance the skills and competences of seafarers. The aim is to ensure a flow of highly competent personnel to the shipping industry and related maritime clusters. Sea-faring activities stand to benefit enormously from heightened public awareness of the maritime sector.

In fact, to celebrate the maritime sector and all that it has to offer, the Commission has proposed the 20<sup>th</sup> of May as the European Maritime Day. The idea is to organise high-profile events, reward good practice and generally raise awareness of Europe's maritime heritage. It will also allow us to further our relations with stakeholders, promote networking among groups and establish renewed commitment to enhance the maritime sector. The first European Maritime Day will be organised this year.

Ladies and Gentlemen,  
Students,

I have talked of a number of goals that we have set for ourselves with this new maritime policy. I have also made reference to some of the actors involved. Allow me to now look at some aspects related to governance particularly since, for those of you with a legal background, this should be of interest.

It is appropriate to underline one word at this stage, that of 'subsidiarity'. This is a fundamental principle of European policy which seeks to ensure that action is taken at the level closest to where it will have an impact. In essence, this means that the Commission will not seek to legislate at a European level if something can be best achieved at a member state, regional or local level. The Integrated Maritime Policy is no different in this respect.

While, on the one hand, the Commission will play its part in realising this integrated policy, we will rely on Member States, regional authorities and others to carry the process forward successfully at their level. They are best placed to ensure that appropriate policies are developed in specific cases or for specific regions. Given the location of the IMLI in Malta, and therefore at the heart of the Mediterranean, it is opportune to take a quick look at what I mean by this in the context of the Med.

The Mediterranean has long been of great importance to Europe. The Integrated Maritime Policy, as with other EU policies, seeks to reflect this by ensuring that each region is dealt with in its own right within the overall umbrella of the maritime policy. We have always believed that any policy in this sphere will only be as good as the sum of its *individual* constituent parts.

In a Mediterranean context, this means that we see a key role for the countries surrounding the Mediterranean – those who best know its opportunities and constraints – to play in developing an integrated approach to the Mediterranean basin. The Commission will seek to complement these efforts by developing a maritime strategy focus on areas of co-operation that include sustainable economic development, surveillance, governance of the Mediterranean basin, marine and maritime research, and celebrating the Mediterranean's rich maritime heritage. It will do this over the next eighteen months in conjunction with forthcoming Presidencies and through mechanisms that already exist within the Med. The Euro-Mediterranean Partnership, for example, is one forum which can ably assist in the unfolding of such a strategy. I am also looking forward to the Mediterranean being able to serve as a showcase for what can be done, at a regional level, to achieve the goals of a responsive and responsible maritime policy.

Allow me to stress that the role the Commission will play in the development of all these different, regional strategies is that of facilitator: helping this to happen through promoting closer co-operation, collective learning, best practice or benchmarks for performance. One of the key actions that we are proposing involves devising guidelines for the development of suitable national policies. We also aim to complement this by developing common tools such as improved surveillance, spatial planning, and data collection and management which can be used by all member states regardless of size, location or other such considerations.

All of this will also require close co-operation with our international partners. Action at a regional or merely European level alone will not be sufficient given the cross-border

nature of our oceans and seas. Maritime affairs will therefore be a regular topic in our discussions with our partners.

Among the external priorities for the EU's Integrated Maritime Policy are the protection of global marine biodiversity, the improvement of maritime safety and security, improved working conditions, access to international markets for Europe's maritime industries and services, sustainable scientific and commercial exploitation of the deep seas, reduced ship-borne pollution and the fight against illegal activities in international waters.

The European Union plays a leading role in developing and setting international standards for maritime action. While this role is most welcome, it is also all the more important to ensure that the EU itself and its Member States live up to these standards and abide by them in their daily activities. It is therefore important that the EU and its member states ratify and implement such international rules speedily. The Commission will encourage Member States to fulfil their obligations and will maintain a database on the ratification by Member States of international conventions in the maritime sector.

Ladies and Gentlemen,

This leads me to the Law of the Sea and the role that the Integrated Maritime Policy can play in upholding its provisions.

One of the major areas where the Community plays a leading role is in the protection of marine biodiversity in areas located beyond national jurisdictions.

Over the last thirty years, deep-sea marine ecosystems have been discovered - like cold water corals, hydrothermal vents and seamounts - which sustain an intense marine life and a biodiversity much richer than we had ever imagined. At the same time, we are beginning to realise just how vulnerable these ecosystems are to growing pressure from human activity. There is an urgent need to provide them with adequate protection albeit this is a very challenging objective given that these ecosystems are located on the high seas or on the international seabed and are therefore, beyond national jurisdiction. This means that international measures are needed.

The Community has worked hard over the past two years to support negotiations at the United Nations on this front.

A first step was achieved with the adoption of Resolution 61/105 in December 2006 on sustainable fisheries. This resolution aims at protecting vulnerable marine ecosystems on the high seas from damaging fishing practices. The EU played a leading role in promoting this resolution and is fully committed to translate it into action. By October 2007 in fact, the Commission had already presented a comprehensive strategy for its implementation.

This strategy foresees the application by Regional Fisheries Management Organisations of concrete and effective measures which are legally binding on all their members to protect fragile marine ecosystems. Thus RFMOs serve as an appropriate multilateral

instrument to facilitate ocean management and the protection of marine resources on the high seas. The Commission represents the European Community in thirteen such international organisations covering the world's oceans, and will continue its efforts to make sure that appropriate measures are taken both within areas covered by RFMOs and for those areas where such organisations have not yet been established. In those cases where there is no prospect of establishing such a regional organisation, the Community will assume its responsibility towards vessels flying its member states' flag and will adopt a regime governing their activities. This proposal is currently being discussed with Member States with a view to its adoption by next June.

It is my hope that at the end of this year, on the basis of principles agreed at the United Nations, new rules should be in place to protect fragile high-sea ecosystems from destructive fishing practices in *all* oceans. This will demonstrate, quite clearly, that international law is not about endless negotiations resulting in toothless recommendations but, on the contrary, is a process that can result in tangible outcomes that can be most effective if supported by adequate political will.

The protection of high-sea marine biodiversity however, requires far more than actions targeted merely at addressing fishing practices. As the Integrated Maritime Policy shows, it is the application of an *integrated* approach to the oceans - which takes account of all existing activities and the instruments available to manage them - that can and will make a difference.

So far, and despite the comprehensive scope of UNCLOS, high-sea economic activities have been, to a very large extent, subject to sectoral rules. IMO rules apply to maritime transport; the International Sea Bed Authority regulates deep-sea mining; fishing activities are subject to specific rules administered by Regional Fisheries Management Organisations, while Regional Seas Conventions are responsible for promoting environmental standards to protect the marine environment. Over and above this, there are many *other* international bodies which have a say in the way the high-seas are managed. As a result, it remains impossible to develop a consistent approach for the protection of high-sea marine biodiversity. While much has been done in national waters, notably via the introduction of Marine Protected Areas, development has been much slower in areas beyond national jurisdiction.

To address this, the Community has been actively involved in discussions at the UN on marine biodiversity in those areas. Since 2006, it has been promoting the adoption of an Implementing Agreement to UNCLOS, which would, amongst other things, put in place co-operation mechanisms between existing international bodies with a view to applying a consistent, environmental approach to areas on the high-seas. This is a long-term goal which is not without its own difficulties, particularly as some wish to link the debate on this issue with the question of marine genetic resources collected on the high seas or on the seabed and whose status under international law is disputed. I can only hope that the UN Ad Hoc Working Group, which was established to discuss marine biodiversity in areas beyond national jurisdiction, will move the debate forward at its second meeting in April 2008.

Ladies and Gentlemen,

Before concluding, allow me to highlight another important element of our work in relation to international fisheries.

Last October, the Commission proposed a package of new political and legislative measures aimed at eliminating illegal fishing activities. We are probably all aware, to some extent or another, that illegal fisheries occur, but few of us have an exact idea of the true scale of this problem. World-wide, it reels in larger volumes of fish than all the legitimate fishing in the EU combined!

We believe that any policy against illegal fishing can only be effective if it is based on a comprehensive approach encompassing all the activities linked to such practices. These include harvesting, transshipment, processing, landing and trading. The idea behind the Commission's proposal is to attack the driving-force behind illegal fishing: short-term profit. Our idea is to allow access to the EU market only to those fisheries products that have been certified as legal by the flag state or exporting state concerned. We also propose to strengthen EU efforts to initiate and support measures within international organisations against illegal fishing, notably in the UN and the FAO, as well as within Regional Fisheries Management Organisations.

Ladies and Gentlemen,

I would like to emphasise that the logic that has underpinned our drive towards an Integrated Maritime Policy for the Union is the same as that which inspires our efforts to secure more and further-reaching multilateral commitments. Separate and disparate action for the oceans and seas – a resource which knows no borders - can never really bear fruit. It follows, therefore, that our efforts must be targeted at closely co-ordinated and better integrated management – management that truly takes the 'bigger picture' into account.

I genuinely believe that we have the resources and the willpower to do what it takes: to build better and broader legal frameworks that will safeguard our precious and invaluable maritime space.

I wish you all a very fruitful year. I do so confident in the knowledge that your continuing, professional education will foster a better maritime world for us all.

Thank you and good luck.

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