1

JORIS Ludivine (TRADE)

From:	Paris Sansoglou <paris.sansoglou@euda.be>
Sent:	05 September 2012 09:10
To:	[Art 4.1 b] (TRADE); [Art 4.1 b] (TRADE)
Subject:	European Dredging Association - views on opening of the US dredging Market
Attachments:	EuDA Draft - Consultation consultation on future of EU-US trade relations V1.docx; Extract State_Aid_Guidelines_Questionnaire_EuDA_Contribution 2012.pdf

Dear [Art 4.1 b]

Thank you very much for a very interesting discussion and for your time last Friday.

As promised please find here attached the draft contribution for which I'm hoping for reactions, particularly as far as investment barriers are concerned.

If all goes according to plan EuDA should submit in the last week before the closing of the consultation.

Yours sincerely,

Paris

PS: Also attached, FYI, an extract from the contribution of EuDA to DG COMP consultation on state aid to maritime transport.
This is the part of interest to you: ***B.1 Assessment of the market/regulatory developments****.*
Most (if not all) contributions to this public consultation should be made public soon, once the results and analysis of the consultation have been published.
In the meantime, if you want some economic information about and views of the shipowners on the shipping market, that's one place to go (check with your COMP colleagues from F2).

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Public consultation on the future of EU-US trade and economic relations

Background documents

Introduction

The US is a strategic partner of the EU. Both the EU and the US are strong promoters of free trade and investment and are among the most open economies in the world. The EU and the US are cooperating at the multilateral level and are engaged in numerous sector-specific bilateral dialogues aiming at increasing transatlantic economic relations. As a political body, the Transatlantic Economic Council (TEC) oversees and facilitates such cooperation with the aim of advancing economic integration between the EU and the US.

To further deepen the transatlantic economic relations, the 28 November 2011 EU-US Summit launched a High Level Working Group (HLWG) on Jobs and Growth tasked with looking at all options to further increase bilateral trade and investment. The Group produced an **interim report** in June. A final report with recommendations to leaders is due by the end of the year.

The creation of the High Level Working Group on Jobs and Growth is a significant event in transatlantic relations. It is currently injecting strong momentum into the transatlantic economic relationship. The objective is to identify policies and measures to increase EU-US trade and investment to support job creation, economic growth and international competitiveness of EU and US industry. The focus of the Working Group is on options where a common approach is likely to be beneficial for both economies and for the functioning of the global trade architecture. This encompasses, for instance, areas such as tariffs, non-tariff measures, services, investment, intellectual property rights and public procurement.

Building on the good existing relationship and cooperation between the EU and the US in fora such as the TEC and the High Level Regulatory Cooperation Forum (HLRCF), the trade policy initiative envisaged by the HLWG is aimed at shaping the future framework of the EU-US trade relationship. It is consistent with the Commission's view of trade policy as set out in the Communication Trade, Growth and World Affairs of 9 November 2010, which proposed to develop stronger relations with strategic partners such as the US.

This public consultation is intended to enable the gathering of detailed views relating to the future trade and economic relationship between the European Union and the United States. Taking into account the more general initial public consultation published February 2012, it aims at detailing and structuring the feedback of all relevant stakeholders. The results of both consultations will feed into the Impact Assessment DG TRADE is currently preparing. The Impact Assessment will help shaping the position of the Commission with regards to a potential bilateral initiative with the United States in the field of trade policy.

For more on the bilateral trade relation, the objectives and possible options for increased cooperation between the European Union and the United States ***please click here.***

IMPORTANT: *Please note that the system allows a time frame of* ***90 minutes*** *(= session time) to fill in the questionnaire. When the session time is exceeded, the connexion with the server is lost and your response is not recorded and cannot be retrieved. We therefore strongly recommend to print the questionnaire (button "download PDF version"), elaborate your reply off-line and then insert your replies in the time-limited session.*

Statement on the handling of personal data

1. About you

To ensure that our public consultation is open and transparent DG TRADE will publicise all contributions on its website, unless respondents indicate that they do not wish their contributions to be made public. The consolidated report will similarly include a list of the names of all the organisations from whom DG TRADE has received contributions to this process.

1.1. **Do you wish your contribution to be made public?** (compulsory)

- [x] Yes
- [ ] No

1.2. **Please state the name of your business/organisation/association?** (compulsory)

European Dredging Association

1.3. **What is your profile?** (compulsory)

- [ ] Business
- [x] Trade association representing business
- [ ] Trade union or organisation representing trade unions
- [ ] Consumer protection agency or representative
- [ ] Government institution or regulator authority
- [ ] Other non-governmental organisation
- [ ] Academic/research institution
- [ ] Citizen
- [ ] Other

1.4. **If "Other", please specify.** (compulsory)

1.5. **If you are a business, what is your company size?**
( )

- [ ] Large company (more than 5,000 employees)
- [ ] Medium Company (≥250 employees ≤5,000)

- [ ] Small company (less than 250 employees)

1.6. What is your main area/sector of activities/interest (up to 3 answers possible)?

(compulsory)

- [ ] Food, beverages and other agricultural products
- [ ] Textiles, clothing, leather and footwear
- [ ] Wood and paper
- [ ] Chemicals, rubber and plastics (includes pharmaceuticals)
- [ ] Other non-metallic mineral products
- [ ] Metals and metal products
- [ ] Power machinery
- [ ] Industrial processing machinery
- [ ] Arms and ammunition
- [ ] Other Machinery and equipment (domestic appliances, agricultural machinery)
- [ ] Instrument engineering (medical equipment, optical equipment)
- [ ] Computers and office equipment
- [ ] Electrical machinery and equipment
- [ ] Radio, television and communication equipment
- [ ] Transport equipment (except railways)
- [ ] Railway equipment
- [ ] Furniture and other manufacturing activities
- [ ] Energy, mining and quarrying
- [ ] Recycling, waste management and water supply
- [x] Construction
- [x] Maintenance services
- [ ] Retail and wholesale trade, hotels and restaurants, real estate
- [ ] Air transport services
- [x] Maritime transport services
- [ ] Other transport services
- [ ] Postal, telecommunication, publishing and printing services

- [ ] Financial services
- [ ] IT services
- [ ] Legal, accounting and management consulting services
- [ ] Architectural and engineering services
- [ ] Other business services (recruitment, advertising,...)
- [ ] Other

1.7. **If "Other", please specify.** ( )

1.8. **In which country are your headquarters located?** (compulsory)

- [x] A Member State of the European Union
- [ ] The United States
- [ ] Other

1.9. **Please specify which country?** (compulsory)

2. Priorities for a forward-looking trade relationship with the United States

2.1. **What should be the priorities of the future EU-US trade and economic relationship?** (compulsory)

The priorities should probably reflect the European values of the Single European Market and its ambition of competition without distortion(s). This could translate into the following two main priorities: 1° Level Playing Field; 2° Market Access without barriers.

The priorities should probably reflect the European values of the Single European Market and its ambition of competition without distortion(s). This could translate into the following two main priorities: 1° Level Playing Field; 2° Market Access without barriers.

2.2. **How should the European Union pursue these priorities?** (compulsory)

1° Level Playing Field is about having the same rules applying to all the competitors (both domestic and foreign) present in a particular market. The EU and US administrations should harmonise each other's rules and policies so that no difference of treatment is made for their respective companies in their respective markets.
2° Market Access without barriers is about freedom to

1° Level Playing Field is about having the same rules applying to all the competitors (both domestic and foreign) present in a particular market. The EU and US administrations should harmonise each other's rules and policies so that no difference of treatment is made for their respective companies in their respective markets.
2° Market Access without barriers is about freedom to access markets and do business unhindered. The EU and US administrations should mirror each other's openness towards their respective companies.

3. EU-US bilateral economic, trade and regulatory dialogues (e.g. Transatlantic Economic Council – TEC, High Level Regulatory Cooperation Forum – HLRCF)

3.1. **Did the TEC, the HLRCF or other sector specific cooperation between the European Union and the United States bring satisfying results for your business in the past?**

* (compulsory)

☐ Yes ☐ No ☒ Do not know / Not applicable

3.2. **If the TEC, the HLRCF or other sector specific cooperation between the European Union and the United States has not brought satisfying results for you in the past, please explain why this has, in your opinion, not been the case.**

* (compulsory)

3.3. **Are there any priority sectors on which economic cooperation should focus?**

(compulsory)

- [x] Yes
- [ ] No
- [ ] Do not know / Not applicable

3.4. **If there are priority sectors, please explain, including specific areas or issues to be addressed.**

( )

Maritime dredging (w hich can be defined as the maritime transportation of natural (extracted) materials from one part of the w ater environment to another by self-propelled sea-going dredging vessels for the purpose of ports and w aterw ays maintenance or development; of land reclamation for commerce, residences and recreation; of support to offshore energy projects (oil & gas, w ind

Maritime dredging (which can be defined as the maritime transportation of natural (extracted) materials from one part of the water environment to another by self-propelled sea-going dredging vessels for the purpose of ports and waterways maintenance or development; of land reclamation for commerce, residences and recreation; of support to offshore energy projects (oil & gas, wind farms, ...); of environmental remediation).

4. Tariffs

4.1. **Are you concerned by tariffs in your field of activity?**

(compulsory)

- [ ] Yes
- [ ] No
- [x] Do not know / Not applicable

4.2. **If you are concerned by tariffs, do these tariffs affect your ability to export/import or to do business in the US?**

(compulsory)

- [ ] Yes
- [ ] No
- [x] Do not know / Not applicable

4.3. **If tariffs affect your ability to export/import or to do business in the US, please explain.** (compulsory)

4.4. **If you are concerned by tariffs, what is the average tariff on your exports/imports?**

(compulsory)

5. Non-tariff measures for industrial products

5.1. **Are you concerned by unnecessary regulatory barriers for industrial goods in your field of activity in the European Union or the United States?**

(compulsory)

- [ ] Yes
- [ ] No
- [x] Do not know / Not applicable

6. Sanitary and phytosanitary obstacles

6.1. **Are you concerned by unnecessary sanitary and phytosanitary regulatory obstacles?** (compulsory)

- [ ] Yes
- [ ] No
- [x] Do not know / Not applicable

7. Customs procedures, border enforcement and trade facilitation

7.1. **Are you concerned by current practices in customs procedures and border enforcement?** (compulsory)

- [ ] Yes
- [ ] No
- [x] Do not know / Not applicable

8. Protection of Intellectual Property Rights

8.1. **Are you concerned by problems of protection and enforcement of intellectual property rights in your field of activity?** (compulsory)

- [ ] Yes
- [ ] No
- [x] Do not know / Not applicable

8.2. **If you are concerned by problems of protection and enforcement of intellectual property rights, please explain the problems you encounter.** (compulsory)

8.3. **Are you concerned by problems of protection for Geographical Indications or trademarks in your field of activity?** (compulsory)

- [ ] Yes
- [ ] No
- [ ] Do not know / Not applicable

8.4. **If you are concerned by problems of protection for Geographical Indications or trademarks, please explain the problems you encounter.** (compulsory)

8.5. **If you are concerned by problems of protection and enforcement of intellectual property rights, including Geographical Indications and**

trademarks, what should be the European Union priorities to address the issues?

(compulsory)

9. Trade in services

9.1. **Are you concerned by barriers to trade in services in your field of activity?** (compulsory)

- [x] Yes
- [ ] No
- [ ] Do not know / Not applicable

9.2. **If you concerned by barriers to trade in services, which ones are the most important ones (multiple answers possible)? Please clarify whether:**

(compulsory)

- [ ] They derive from local regulation being applied differently to you compared to domestic firms?
- [x] They discriminate against cross-border service provision
- [x] They affect your ability to establish physical outlets in the country and supply services through these outlets
- [ ] They affect the price of the services you provide
- [ ] They have other restrictive impacts

9.3. **If "Other", please specify.** ( )

9.4. **Please describe the barriers in detail.** (compulsory)

The Jones' Act (Merchant Marine Act of 1920; P.L. 66-261) restricts cabotage activities (including dredging) in the US to US flagged, owned, constructed and crewed ships.
No ship either foreign constructed, foreign flagged, foreign owned or with foreign crew is allowed to work.
This is a complete blockage of access to the US (cabotage) market for the foreign companies.
Waivers can be attributed in

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This is a complete blockage of access to the US (cabotage) market for the foreign companies.
Waivers can be attributed in exceptional circumstances (e.g. hurricane Katrina 2005) and for a very short period of time.
For example, no waivers were attributed during the Deep Sea Horizon crisis, which would have greatly benefited from the European technology and know-how.

9.5. **If you are concerned by barriers to trade in services, please indicate to which level of government the obstacles relate (multiple answers possible)?**

(compulsory)

☑ US Federal / EU level regulation ☐ US States / EU Member State regulation ☐ Do not know / Not applicable

9.6. **If you are concerned by barriers to trade in services, what are the estimated additional costs (in percentage of the exports/imports) for your business resulting from the barriers to trade in services?**

(compulsory)

This is difficult to estimate as we are considering potential business.
However, considering that the European Dredgers are world

This is difficult to estimate as we are considering potential business.
However, considering that the European Dredgers are world leaders with around 80% of the world free markets (EuDA members turnover 7.0 bn € in 2010), they would certainly be in a position to claim a fair share of the North American Markets (estimated at **950M€** in 2010; source www.iadc-dredging.com), would they be open.

9.7. **If you are concerned by barriers to trade in services, how should the European Union address these restrictions to trade in services?**

(compulsory)

EuDA is suggesting considering the following three possible approaches of progressive opening the US dredging market:
Option 1 the "Canadian approach": market access is limited to selected dredging equipment with their crew.
Objective: obtain that the US allow the imports of specific equipment with their crew (e.g. large high tech dredgers) that cannot be found on its local market.
Rationale: Canada is officially

EuDA is suggesting considering the following three possible approaches of progressive opening the US dredging market:
Option 1 the "Canadian approach": *market access is limited to selected dredging equipment with their crew.*
Objective: obtain that the US allow the imports of specific equipment with their crew (e.g. large high tech dredgers) that cannot be found on its local market.
Rationale: Canada is officially opening its dredging market to European companies through the current FTA negotiations with the EU. However, when the Canadian dredging market was still officially closed to European dredgers, Canada allowed nevertheless the imports of specific equipment with their crew (large high tech dredgers) that could not be found on its local market.
If such an approach could be defended towards US administration, it would be already a significant step forward for the European Dredgers.

Option 2 the "Offshore approach": *market access is limited to a specific segment of the US dredging market.*
Objective: obtain that the US allow European dredgers to tender on a specific segment of the US dredging market (e.g. the dredging services to offshore energy).
Rationale: the opening of the US dredging market could be granted to a specific segment such as dredging services to offshore energy (oil & gas, windfarms, and other renewable such as wave and tidal).
The advantage for the US is that this segment is located far from the shore (offshore), with possibly limited visibility (as far as dredging is concerned) and could potentially receive less media attention.

Option 3 the "Jones Act exemption": *market access to the US dredging market is unlimited.*
Objective: obtain that the US open their entire dredging market to European dredging companies.
Rationale: the possible opening of the entire US dredging market to European companies would certainly increase significantly the competition on the local dredging market which would drive the prices down and probably trigger some restructuring of the US industry.
Moreover, at the root of the Jones Act, lies the possibility for the US to mobilise merchant ships in case of need during a war effort: European dredgers could consider committing their ships present in US waters at the time of such a mobilisation request.

10. Investment

10.1. **Are you concerned by barriers to direct investments in your field of activity?** (mandatory)

☒ Yes ☐ No ☐ Do not know / Not applicable

10.2. **If you are concerned by barriers to investment, please describe the barriers in detail.** (compulsory)

DO THE DREDGERS FACE ANY BARRIERS CONCERNING ESTABLISHING AND OPERATING COMPANIES IN THE US ?
IF YES COULD YOU PLEASE ELABORATE ?
THANK YOU.

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THANK YOU.

10.3. **If you are concerned by barriers to investment, please indicate to which level of government the regulatory obstacles relate (multiple answers possible)?**

(compulsory)

☒ US Federal / EU level regulation ☐ US States / EU Member State regulation ☐ Do not know / Not applicable.

10.4. **If you are concerned by barriers to investment, what are the estimated additional costs for your business (in percentage of the investment) resulting from the barriers?**

(compulsory)

IF THE DREDGERS FACE ANY BARRIERS CONCERNING ESTABLISHING AND OPERATING COMPANIES IN THE US ? WHAT COULD BE

IF THE DREDGERS FACE ANY BARRIERS CONCERNING ESTABLISHING AND OPERATING COMPANIES IN THE US ? WHAT COULD BE THE EXTRA COSTS ASSOCIATED WITH THESE BARRIERS ? THANK YOU.

10.5. **If you are concerned by barriers to investment, how should the European Union address the issue?** (compulsory)

ANY SUGGESTION
WELCOME. THANK YOU.f

ANY SUGGESTION WELCOME. THANK YOU.

11. Public Procurement

11.1. **Are you concerned by restrictions in public procurement in your field of activity?** (compulsory)

- [x] Yes
- [ ] No
- [ ] Do not know / Not applicable

11.2. **If you are concerned by restrictions in public procurement, please explain the restrictions.**

(compulsory)

In many dredging projects, the project owner is a public or semi public entity that often needs to follow a public tender procedure.
The market is closed to foreign companies (see above description under question 9.4).
The Jones' Act restricts cabotage activities (including dredging) in the US to US flagged, owned, constructed and crewed ships.
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Waivers can be attributed in exceptional circumstances (e.g. hurricane Katrina 2005) and for a very short period of time.

For example, no waivers were attributed during the Deep Sea Horizon crisis, which would have greatly benefited from the European technology and know-how.

11.3. **If you are concerned by restrictions in public procurement, please indicate to which level of government the obstacles relate (multiple answers possible)?**

(compulsory)

- [x] US Federal / EU level regulation
- [ ] US States / EU Member State / local level regulation
- [ ] Do not know / Not applicable

11.4. **If you are concerned by restrictions in public procurement, what are the estimated additional costs/forgone revenue for your business resulting from these restrictions?**

(compulsory)

This is difficult to estimate as we are considering potential business.
However, considering that the European Dredgers are world leaders with around 80% of the world free markets (EuDA members turnover 7.0 bn € in 2010), they would certainly be in a position to claim a fair share of the North American Markets (estimated at 950M€ in 2010; source www.iadc-dredging.com), would they be open.

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However, considering that the European Dredgers are world leaders with around 80% of the world free markets (EuDA members turnover 7.0 bn € in 2010), they would certainly be in a position to claim a fair share of the North American Markets (estimated at **950M€** in 2010; source www.iadc-dredging.com), would they be open.

11.5. **If you are concerned by restrictions in public procurement, what should be the European Union priorities to address the issue?**

(compulsory)

EuDA is suggesting considering the following three possible approaches of progressive opening the US dredging market:
Option 1 the "Canadian approach": market access is limited to selected dredging equipment with their crew.
Objective: obtain that the US allow the imports of specific equipment with their crew (e.g. large high tech dredgers) that cannot be found on its local market.
Rationale: Canada is officially opening its dredging market to

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If such an approach could be defended towards US administration, it would be already a significant step forward for the European Dredgers.

<u>Option 2 the "Offshore approach"</u>: *market access is limited to a specific segment of the US dredging market.*
<u>Objective</u>: obtain that the US allow European dredgers to tender on a specific segment of the US dredging market (e.g. the dredging services to offshore energy).
<u>Rationale</u>: the opening of the US dredging market could be granted to a specific segment such as dredging services to offshore energy (oil & gas, windfarms, and other renewable such as wave and tidal).
The advantage for the US is that this segment is located far from the shore (offshore), with possibly limited visibility (as far as dredging is concerned) and could potentially receive less media attention.

<u>Option 3 the "Jones Act exemption"</u>: *market access to the US dredging market is unlimited.*
<u>Objective</u>: obtain that the US open their entire dredging market to European dredging companies.
<u>Rationale</u>: the possible opening of the entire US dredging market to European companies would certainly increase significantly the competition on the local dredging market which would drive the prices down and probably trigger some restructuring of the US industry.
Moreover, at the root of the Jones Act, lies the possibility for the US to mobilise merchant ships in case of need during a war effort: European dredgers could consider committing their ships present in US waters at the time of such a mobilisation request.

12. Competition issues

12.1. **Are there fields where the European Union should seek to increase cooperation with the United States?** (compulsory)

Yes No Do not know / Not applicable

12.2. If there are there fields where the European Union should seek to increase cooperation with the United States, which fields (multiple answers possible)?

	Yes	No	Do not know / Not applicable
12.2.1. Anti-trust (compulsory)	answer 1 for question ID50728523146161791 2	answer 2 for question ID50728523146161791 2	answer 3 for question ID50728523146161791 2
12.2.2. Mergers (compulsory)	answer 1 for question ID54218613146161791 2	answer 2 for question ID54218613146161791 2	answer 3 for question ID54218613146161791 2
12.2.3. Liberalisation (compulsory)	answer 1 for question ID589787031461617912	answer 2 for question ID589787031461617912	answer 3 for question ID589787031461617912
12.2.4. State Aid (compulsory)	answer 1 for question ID626987931461617912	answer 2 for question ID626987931461617912	answer 3 for question ID626987931461617912

12.3. **What should be the European Union priorities?** (compulsory)

The US dredging market should be opened (see above, questions 9.7 and 11.5). EuDA is suggesting considering the follow ing three possible approaches of progressive opening the US dredging market:
Option 1 the "Canadian approach": market access is limited to selected dredging equipment w ith their crew .
Option 2 the "Offshore approach": market access is limited to a specific segment of the US dredging market.
Option 3 the "Jones Act

The US dredging market should be opened (see above, questions 9.7 and 11.5). EuDA is suggesting considering the following three possible approaches of progressive opening the US dredging market:

<u>Option 1 the "Canadian approach"</u>: *market access is limited to selected dredging equipment with their crew.*

<u>Option 2 the "Offshore approach"</u>: *market access is limited to a specific segment of the US dredging market.*

<u>Option 3 the "Jones Act exemption"</u>: *market access to the US dredging market is unlimited.*

13. Facilitating the participation of small and medium sized enterprises (SMEs) in the transatlantic market place

13.1. In your view/experience, which of the sections in this questionnaire are of particular importance to SMEs? Please explain why?

(compulsory)

For the dredging industry: sections 9 and 11.
If the US dredging market opens, section 7: customs procedures could become an issue (if the opening is associated with a particularly heavy administrative burden to use foreign ships, equipment or crew).
Section 8, IPR, could also potentially bring new issues.

For the dredging industry: sections 9 and 11.
If the US dredging market opens, section 7: customs procedures could become an issue (if the opening is associated with a particularly heavy administrative burden to use foreign ships, equipment or crew).
Section 8, IPR, could also potentially bring new issues.

13.2. In your view/experience, how could SMEs better benefit from economic opportunities in transatlantic trade and investment relationships? (compulsory)

If the US dredging market opens, the new opportunities created could be beneficial to SMEs however cost of mobilisation (of the equipment) might be a significant turnoff.

If the US dredging market opens, the new opportunities created could be beneficial to SMEs however cost of mobilisation (of the equipment) might be a significant turnoff.

14. Impact on Consumers

14.1. In your view, would the elimination of barriers to trade and investment between the EU and the US have an effect on Consumers?

(compulsory)

- [ ] Yes
- [ ] No
- [x] Do not know / Not applicable

14.2. If yes, what impact do you expect?

	Yes	No	Do not know / Not applicable
14.2.1. Lower Prices * (compulsory)	answer 1 for question ID799492031461617912 ☐	answer 2 for question ID799492031461617912 ☐	answer 3 for question ID799492031461617912 ☐
14.2.2. Higher prices * (compulsory)	answer 1 for question ID839592931461617912 ☐	answer 2 for question ID839592931461617912 ☐	answer 3 for question ID839592931461617912 ☐
14.2.3. Larger choice of products * (compulsory)	answer 1 for question ID872493831461617912 ☐	answer 2 for question ID872493831461617912 ☐	answer 3 for question ID872493831461617912 ☐
14.2.4. Smaller choice of products * (compulsory)	answer 1 for question ID917594731461617912 ☐	answer 2 for question ID917594731461617912 ☐	answer 3 for question ID917594731461617912 ☐
14.2.5. Other ( )	answer 1 for question ID959295631461617912 ☐	answer 2 for question ID959295631461617912 ☐	answer 3 for question ID959295631461617912 ☐

14.3. **If "Other", please specify.** ( )

15. Environmental Impact

15.1. **Do you expect impacts on the environment in the context of an enhanced EU-US trade cooperation?** * (compulsory)

- [x] Yes
- [ ] No
- [ ] Do not know / Not applicable

15.2. What impacts on the environment in the context of an enhanced EU-US trade cooperation do you expect ?

	Positive	Negative	Do not not / Not applicable
15.2.1. Air pollution (compulsory)	answer 1 for question ID093698731461617912 ◉	answer 2 for question ID093698731461617912 ○	answer 3 for question ID093698731461617912 ○
15.2.2. Water pollution (compulsory)	answer 1 for question ID137199631461617912 ◉	answer 2 for question ID137199631461617912 ○	answer 3 for question ID137199631461617912 ○
15.2.3. Ground pollution (compulsory)	answer 1 for question ID179200532461617912 ○	answer 2 for question ID179200532461617912 ○	answer 3 for question ID179200532461617912 ◉
15.2.4. CO_2 emissions (compulsory)	answer 1 for question ID217201432461617912 ◉	answer 2 for question ID217201432461617912 ○	answer 3 for question ID217201432461617912 ○
15.2.5. Impact on bio-diversity (compulsory)	answer 1 for question ID251202332461617912 ◉	answer 2 for question ID251202332461617912 ○	answer 3 for question ID251202332461617912 ○
15.2.6. Other ( )	answer 1 for question ID294303232461617912 ○	answer 2 for question ID294303232461617912 ○	answer 3 for question ID294303232461617912 ○

15.3. **If "Other", please specify.** ( )

15.4. **Given the importance of commitments on environmental protection as underlying elements for international economic relations, how could the European Union and United States cooperate to further promote the adherence to and the strengthening of international principles, rights and agreements on environmental protection?** (compulsory)

Both sides are aware of the importance of the environmental aspects of dredging and have invested in concepts/approaches such as "Building with Nature" in the Netherlands or "Engineering with Nature" in the US or "Working with Nature" by PIANC (international navigation think tank).

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16. Social Impact

16.1. Are you concerned by (trade-related) problems of protection or enforcement of labour and social rights in the United States or the EU in your field of activity?

*(compulsory)

- [x] Yes
- [ ] No
- [ ] Do not know / Not applicable

16.2. Please explain *(compulsory)

As the Jones' Act (see sections 9 and 11) enforces US constructed ships with US crews and US owners, the potential social impact in the US of a market opening is likely not to be negligible. It will probably result in a shift of the US citizens workers towards highly trained, qualified and skilled profiles leaving the lower levels of unskilled tasks to non US (and probably non EU either) workers.

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16.3. Do you think that the level of employment in the European Union or United States respectively could be affected, positively or negatively in the context of an enhanced EU-US trade cooperation?

	Positively	Negatively	No change	Do not know / Not applicable
16.3.1. In the EU: (compulsory)	answer 1 for question ID469507232461617912	answer 2 for question ID469507232461617912	answer 3 for question ID469507232461617912	answer 4 for question ID469507232461617912
16.3.2. In the US: (compulsory)	answer 1 for question ID511308332461617912	answer 2 for question ID511308332461617912	answer 3 for question ID511308332461617912	answer 4 for question ID511308332461617912

16.4. Do you think that wage levels in the European Union or United States respectively could be affected, positively or negatively in the context of an enhanced EU-US trade cooperation?

	Positively	Negatively	No change	Do not know / Not applicable
16.4.1. In the EU: (compulsory)	answer 1 for question ID619010432461617912	answer 2 for question ID619010432461617912	answer 3 for question ID619010432461617912	answer 4 for question ID619010432461617912
16.4.2. In the US: (compulsory)	answer 1 for question ID661311532461617912	answer 2 for question ID661311532461617912	answer 3 for question ID661311532461617912	answer 4 for question ID661311532461617912

16.5. Do you think that labour standards in the European Union or United States respectively could be affected, positively or negatively in the context of an enhanced EU-US trade cooperation?

	Positively	Negatively	No change	Do not know / Not applicable
16.5.1. In the EU: (compulsory)	answer 1 for question ID762013732461617912	answer 2 for question ID762013732461617912	answer 3 for question ID762013732461617912	answer 4 for question ID762013732461617912
16.5.2. In the US: (compulsory)	answer 1 for question ID817014832461617912	answer 2 for question ID817014832461617912	answer 3 for question ID817014832461617912	answer 4 for question ID817014832461617912

16.6. **Given the importance of commitments on labour rights and decent work as underlying elements for international economic relations, how could the European Union and United States cooperate to further promote the adherence to and the strengthening of international recognised principles, rights and agreements on labour and decent work?** (compulsory)

The ILO Maritime Labour Convention, adopted in 2006, w ill be ratified soon.
This convention sets out minimum standards for labour and w orking conditions.
The EU and the US could encourage and rew ard the best practice and companies going beyond these minmum standards.

Since August 2012, the ILO Maritime Labour Convention, adopted in 2006, has been ratified and will enter into force worldwide in August 2013. This convention sets out minimum standards for labour and working conditions.
The EU and the US could encourage and reward the best practice and companies going beyond these minimum standards.

17. Other issues

17.1. **If there are any other issues that are not mentioned in this questionnaire that you would like to address, please use the space below to set them out.** ( )

17.2. **Your comments ...** ( )

B. GENERAL QUESTIONS

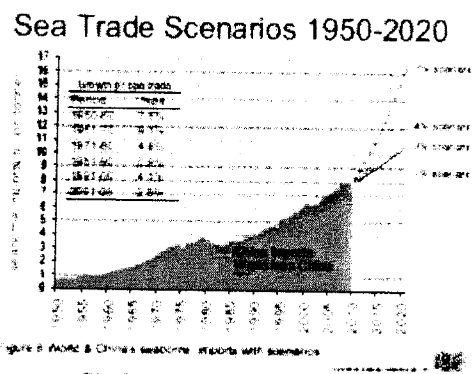
B.1. Assessment of the market/regulatory developments

B.1.1 *Based on your knowledge and information at your disposal, what are the main developments in the maritime industry since 2004 with respect to*

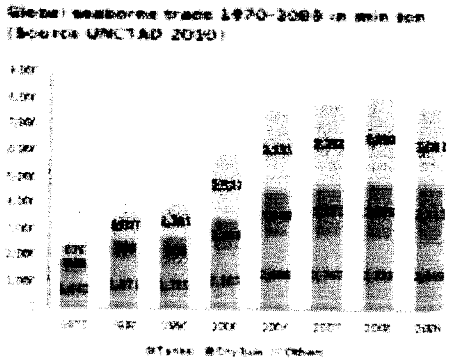
(a) world's seaborne trade[2], the number of containers transported[3], the overall tonnage of the world fleet[4]; what were the effects of the global crisis and are there already signs of recovery? If possible, please provide the same data per country, per company and for the years since 1989.

The European Dredgers are key facilitators of the maritime transport activities and the offshore energy installations.

The developments in seaborne trade, driven by continuous technological developments meant that the ports had to follow the development and expand their activities, deepen their accesses, ... this is where the dredgers have brought their contributions.



Sources: Clarkson Research Services Ltd



IADC

The strength of the European Dredgers comes from their versatility translating into an extensively varied portfolio of activities which can include activities outside the direct scope of maritime transport such as land reclamation for tourism (e.g. artificial islands), beach replenishment, coastal defence, environmental remediation (for other purposes than navigation) or deep sea mining. All of these activities include the maritime transportation of natural materials by specialised dredging vessels and contribute positively to improve the European maritime clusters and benefit them significantly.

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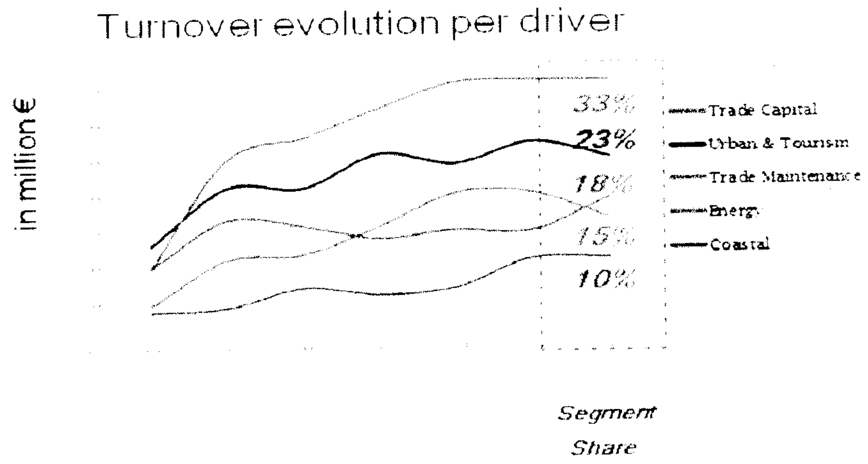
[2] Measured in tonnes and tonne-kilometres.

[3] Measured in 20 Foot Equivalent Unit (TEUs).

[4] Measured in Deadweight tonnage or gross tonnage.

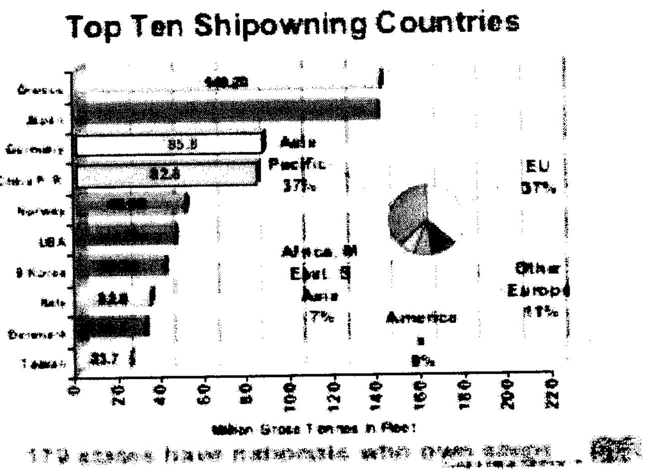
The dredging drivers are the following:



Source: IADC-EuDA

(b) market position of the EU maritime industry (EU controlled and EU flagged ships? How would you describe the current competitive situation of the various EU companies in the maritime sector in comparison with non-EU companies and the rest of the world[5]*? Where available, please provide the relevant data on, for instance, leading players, market shares, market share evolution in relevant markets, etc.*

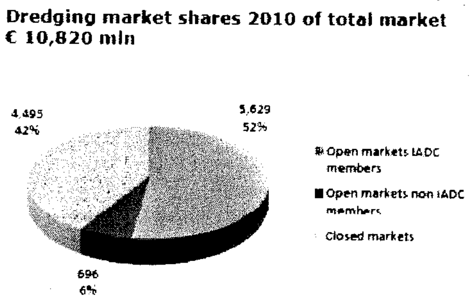
All major maritime inventions have been made in Europe. Shipping is still dominated by Europeans: according to Clarckson's 48% of the world fleet is European owned (37% EU).

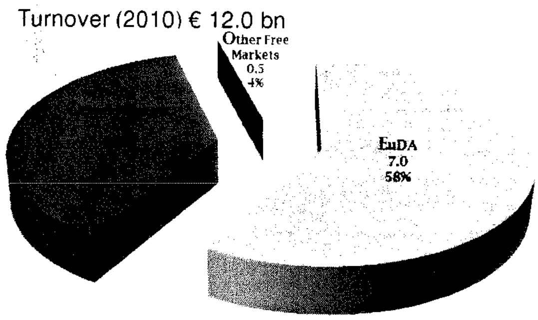


Source: Clarkson Research Services Ltd

[5] Measured by different indicators, such as: number of EU controlled and EU registered fleets, fleet capacity (existing ships and newbuilts), container shipping and other types of shipping activities, nationality of best performing companies, etc.

Concerning the dredging industry, the European Dredgers' market share is around 80% of the world's free market.





Sources: IADC *EuDA*

As can be seen from these two graphs, comparable data can be an issue: depending on the mix of drivers or market segments included or not in the figures, comparison can be difficult.

(c) number of passengers transported and passenger–km performed; the overall capacity of the fleet of passenger vessels, split by different type of vessels;

Not applicable.

(d) regulatory changes (at national, EU and international levels) concerning, for example, security and safety standards, on board and on shore working standards, training requirements, flag share requirements, international agreements, transport and competition with other modes of transport, tourism, tax policies, successive EU enlargements in 2004 and 2007;

The reference legislator for maritime transport is the International Maritime Organization ("IMO"). The legislative developments at IMO usually concern the minimum standards for security and safety, on board working conditions, training requirements, flag share requirements, ...

The European Dredgers' best practices take them always well above the minimum standards agreed within IMO.

Alongside IMO there are the Regional Seas Conventions (e.g. OSPAR, HELCOM, ...) which can impose stricter rules on specific issues (e.g. sulphur emissions in the Baltic Sea).

Environmental legislation is the one which most impacts the dredging industry. EU legislation plays a major role in this respect, with Framework Directives on Water, Marine Strategy and Waste, European Directives on Birds and Habitats, Environmental Impact Assessment, Strategic Impact Assessment, and communications on Integrated Coastal Zone Management/ Maritime Spatial Planning.

Reference can also be made to the European Commission's leading policies on Community Transport Policy and to the Integrated Maritime Policy.

(e) main technological, regulatory, etc. developments since the introduction of the Guidelines which have impacted on labour conditions and more specifically, on labour costs. What are the likely developments in the future?

In 2006, the International Labour Organization ("ILO") adopted the Maritime Labour Convention ("MLC"). This Convention is meant to modernise and regroup the existing fragmented standards and to address, on one hand, conditions of employment, accommodation, recreational facilities, food and catering on board ships and, on the other hand, health protection, medical care, welfare and social security protection of the seafarers.

The MLC remains to be ratified. Although the MLC is a step in the right direction, even after its ratification, it will not establish a "social" level playing field. Indeed, as the MLC does not set any quantitative standards or obligation in respect of salaries, social security, pensions, ..., it will have only a minor impact on some key sources of social imbalances and unfair competition, in particular the large differences in the labour costs around the world.

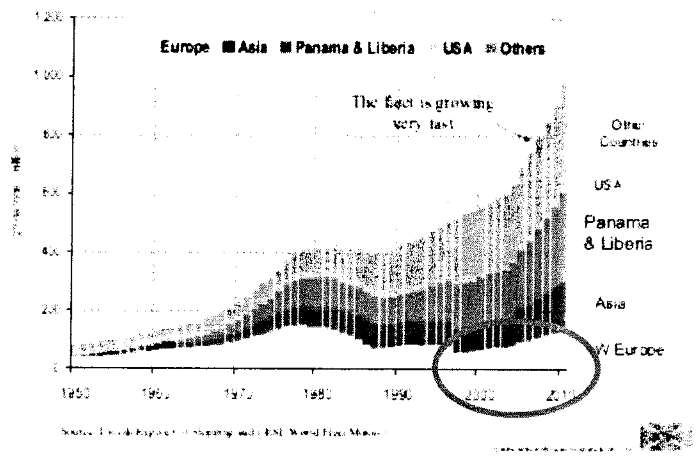
The MLC, when ratified and enforced, will mainly:

- **affect the vessels and equipment;**
- **concern new buildings and will not have too much impact on the current fleet (due to the "grandfather clause" and the delay in ratification);**
- **with no significant effects to be expected on the actual costs of labour (no provisions with quantitative obligations in terms of salaries, social security coverage, pensions, ...).**

(f) flagging of vessels: proportion (and its change over time) of a Member State's controlled/ owned fleet registered under its flag, under other Member States' flag and under non-EU flag; extent of switching over time between Member States' flags and between EU flags and non-EU flags (and possible reasons for such switching). In particular, are you aware of sources containing statistics related to the flagging history of the EU fleet (e.g. movements of vessels among EU registers, or between EU and non-EU registers)? What are in your view the driving forces behind the evolution of EU flags over time (in terms of number of vessels and/ or tonnage). Please distinguish between factors related to measures falling under the scope of the current guidelines or other State Aid measures and exogenous factors (e.g. related to technological developments, demand for maritime transport services, non-EU countries' policies, etc);

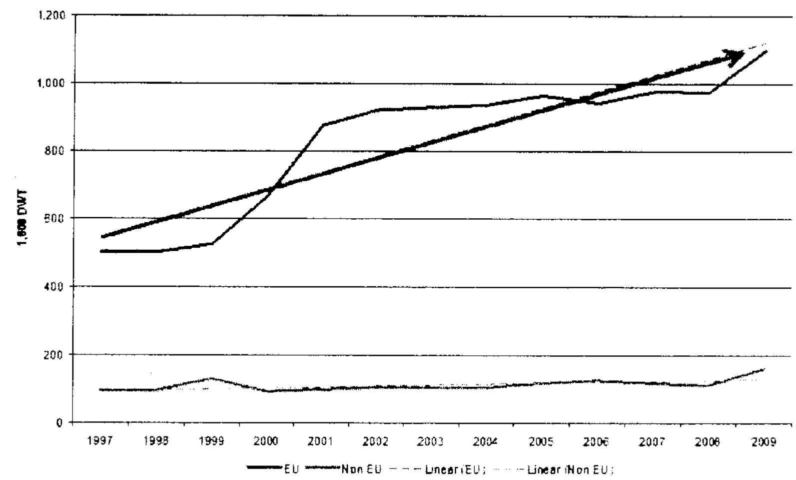
As can be seen from the graph below, the introduction (1997) and the continuation (2004) of the Maritime Guidelines have significantly contributed to stop the general trend of flagging-out from EU registers for the vessels included in the scope of the Maritime Guidelines.

Fleet of the 189 Flag States



Source: Clarkson Research Services Ltd

For the Trailing Suction Hopper Dredgers (TSHD), the impact of the Maritime Guidelines on the flagging of the European dredging fleet can be visualised on the graph below:



Source: EuDA

There is no single driving force motivating the choice of flag. Shipowners have to (and do) consider many parameters in order to make their optimal choice,

There is no single driving force motivating the choice of Flag. Shipowners consider the entirety of the parameters in order to make <u>their</u> optimal choice which may vary according to the market segment(s) they are active in, to their perception of current and future developments or trends in their intrinsic markets, their choice of strategic positioning and so forth.

Accordingly, it is fair to say that the State aid for which dredging eligible under Maritime Guidelines is important in the decision-making process, as it is for the other shipowners, but it is not the sole force driving it. What is certain, however, is that, in their absence, unfair global competition would be even stronger and even more damaging to the EU dredging industry.

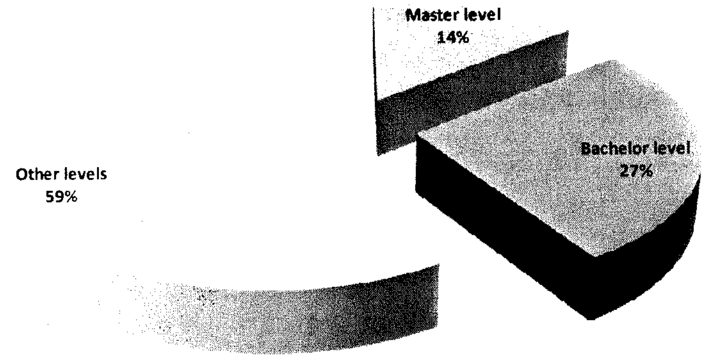
(g) employment by EU and non-EU registered shipowners on board of both EU and non-EU citizens;

(h) employment by EU and non-EU registered shipowners on shore of both EU and non-EU citizens; and

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

Question g-h-i

The Maritime Guidelines helped to reduce significantly the important labour cost differences between EU and non-EU dredging companies from low-cost countries. In spite of the Maritime Guidelines, those differences however remain important, as there are shortages of skilled seafarers and the EU dredging companies need a particularly well educated and skilled workforce (more than 40% of Bachelor or higher level of education):



Source: IADC

As regards the above questions, please provide relevant data which is in your possession or point to sources where such data and related information could be found. **See annexed documents (3 annexes).**

B.1.2 *To what extent these developments could be attributed to State aid measures as opposed to other exogenous factors? Please specify and provide relevant data, if available.*

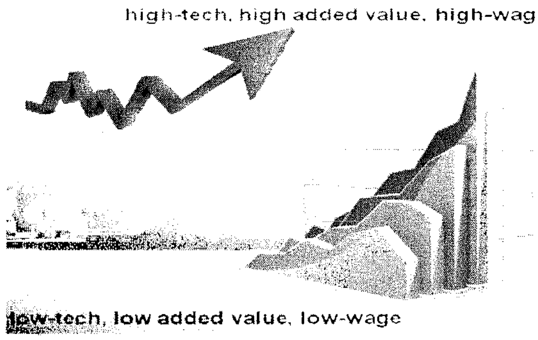
As stated above (see B.1.1(f)), the impact of the Maritime Guidelines is difficult to isolate and to quantify precisely.

According to the EuDA members, the contribution of the Maritime Guidelines to the European maritime clusters, including maritime dredging, is nevertheless undeniable. It is the generally shared view among EuDA members that the Maritime Guidelines stimulated investments in the EU in terms of technology, equipment and human resources (EU seafarers, training, R&D, innovation, know how, ...).

B.1.3 *How have maritime companies' business models evolved since the adoption of the Maritime Guidelines? Please describe the main differences, if any, between the business models of European based shipowners and non-European ones?*

Overall, the business model of the European Dredgers is to provide high added value services to their clients. They can achieve this by continuously investing in Research & Development, Innovation, new technologies and equipment as well as in training.

In so doing, the overall EU business model is squarely opposite to that of non-EU companies from low cost countries, often State-owned and highly dependent on government financial support, whose main focus is on keeping costs low (low-tech, low added value and low wage, with little respect for working conditions, social protection or welfare).



Source: EuDA

To a large extent, European Dredgers' operations are located outside the EU (+/- 70%), but they repatriate 90% of their returns back to the EU. So they are continuously confronted with these unfair competition practices, which threaten in the long run to seriously harm their economic competitiveness.

Unfair competition practices are like coastal erosion:
markets are eroded and lost at a steady pace; left untackled in the long term, they can wear out even the most resilient of companies and cause permanent damage to the industry.

B.1.4 *Which are, in your view, the factors determining European shipowners' choice of the country where they flag their ships and the country where they pay their taxes? Do you expect that these factors will change in the future?*

(a) to which extent the choice is determined by State aid aspects?

As stated above (B.1.1(f) and B.1.2), State aid aspects are one of the many shipowners' drivers in their decision-making process. From the EuDA members' point of view, the State aid aspects have a significant impact on such decisions for the vast majority of their fleet. They consider that decisions (of Flag country) purely taken on fiscal basis are often the sign of a more speculative business model with little or no long term commitment to the sector.

(b) to what extent the choice is determined by other factors (for example, better, quicker and/or cheaper administrative services, favourable labour law or the way it is implemented, etc. Please substantiate your view with concrete data and examples.

Sometimes, by using other flags in their fleet, the European Dredgers can add a "home country advantage" to their offer, during tendering, to increase their chances of success.

(c) which countries are considered the best in the EU/in the world for ship-flagging and paying taxes and why?

For the European Dredgers, the EU flags of preference include Belgium, Luxembourg, Netherlands, Cyprus, Denmark, Germany, France, Italy, ...

The reasons are usually historical, commercial and fiscal.

B.1.5 *What are the legal, technical or administrative barriers to registering a ship or to moving the head offices of a company from one country to another?*

For the European Dredgers, there is no high threshold (legal, technical or administrative) to flag or re-flag a ship from one country to another country.

As opposed to ship-flagging itself, the relocation of head offices of an operational company is however a much more difficult exercise.

As most of the European Dredgers have been (re-)flagged into the EU, most of the operational head quarters are strongly established themselves within Europe.

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

As stated above (B.1.1(f)), the Maritime Guidelines have certainly contributed to re-flag a number of dredgers back to the EU. (so they did certainly not hamper the evolution).

B.1.7 *What characteristics are making the maritime sector unique from the perspective of State aid control? Please provide a list of substantive sectoral State aid rules which you judge necessary in view of these characteristics? Please clarify which aspects of the maritime transport sector could be satisfactorily addressed by horizontal State aid rules. Please be as specific as possible in your reply indicating also the expected economic, social and environmental impact of the sectoral rules.*

As far back as we look in mankind history, the Seas and the Oceans have always been a key strategic resource.

In Ancien Greece, the idea of "Thalassocracy" made Pericles state: "*Μέγα το της Θαλάσσης Κράτος*" (~"*Great is the Power of the Sea*" **and/ or** "*Great is the Sea State... that controls the Sea*"; **5th century BC).**

On his webpage on Sustainable Development by Building with Nature®, Ronald Waterman stated:
"*Many civilisations found their origin and were often developed in the border zone land-water, in coastal and deltaic regions. Therefore, it is not a surprise that at the beginning of the 21st century, around 80 % of the largest population centres in the world is found in coastal areas*".

Moreover, account must be taken of what the European Commission President, Mr José Manuel Barroso, stated in his introduction to the Brochure of the Green Paper on Maritime Policy (2006), namely that "*Europe is a Maritime Continent*".

In his intervention at the 2010 SMM in Hamburg, Dr Martin Stopford (Managing Director of Clarkson Research Services Ltd) rightly stated as follows:

"*If shipping stopped for 3 months, so would modern life as we know it*". "*Sea trade is complex ... is managed through a market driven system which ruthlessly drives down transport costs. With few barriers, this remains one of the few examples of the classical economist's "perfect competition" model at work. This market based system, combined with improved technology, and meant that over a period of fifty years transport costs for key commodities such as coal and oil hardly increased*".

The European Commission itself, in the justification of the Maritime Guidelines, used arguments and reasons which continue to apply to the present day: in the field of maritime transport, the European fleet continues to be faced with fierce competition from vessels registered in third countries which do not take much care to observe social and safety rules in force at international level.

This applies to dredging as it applies to the other shipping segments: international competition for maritime dredging is ruthless and cost cutting remains a key "survival of the fittest" strategy. The Maritime Guidelines helped significantly reduce the level of one of the main operating costs: labour.

Tonnage tax regimes (including fiscal measures) enable companies to remain competitive even in high tax countries compared to low tax (tax heavens) or countries with (State-owned) national companies which receive unfair advantages (e.g. China).

In conclusion, as opposed to other sectoral State aid regimes, which address intra-EU distortions of competition, the Maritime Guidelines are aimed at addressing market failures and distortions of competition at a worldwide level as well as at aiding the EU dredging companies to compete with non-EU competitors, who frequently have cost advantages over EU players. That specific rationale justifies, and even warrants, maintaining the Maritime Guidelines as a separate policy instrument.

B.2. Objectives of the Maritime Guidelines and current challenges for the maritime sector

The general objectives of the Maritime Guidelines are contained in Section 2.2 thereof.

B.2.1 *Which are, in your view, the likely developments and where do you see the major challenges for the maritime sector in the short (during the next*