

# European Community Shipowners' Associations



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## **COMMISSION COMMUNICATION ON A EUROPEAN PORTS POLICY**

### **GENERAL COMMENTS**

ECSA appreciates the useful consultation process on a European Port Policy with 6 Workshops to which ECSA actively contributed. The Commission Communication of 18 October takes the views expressed during these workshops very much into account. It is useful that the main views expressed by stakeholders during the consultation process are attached to the Communication.

ECSA has noted that the necessity of extension and investments in ports and hinterland connections, as brought forward by all stakeholders as a priority, has been taken on board. It now remains to be seen how present procedures can be improved. In this respect the general economic interest of ports and hinterland connections should be taken into account.

ECSA notes that, as already suggested in the Blue Paper on Maritime Policy of 10 October, Guidelines concerning funding of ports will be issued in 2008 and that the Transparency Directive will be applied.

A soft law approach as suggested by the vast majority of stakeholders has been followed. It must however be clear that further improvement in efficiency, modernisation of services and ensuring the relevance of services remains a necessity for all services including technical-nautical services.

In this respect existing legislation particularly the four freedoms of the Treaty and the Competition Rules should be properly applied on all port services. This is confirmed in the Communication. The reference to Pilot Exemption Certificates and an enhanced use of technological innovation is appreciated.

The establishment of a European sectoral social dialogue committee in ports is appreciated. However, it speaks for itself that ECSA as a main port user wants to be directly involved in all future discussions with stakeholders and the EU Institutions on the application of the European Port Policy.

The Commission Communication lays down sound principles of a European Port Policy; these principles should now be supported and applied by all parties involved. The Commission should fully enact its role as guardian of the Treaty in this respect.

### **DETAILED COMMENTS AND SUGGESTIONS**

Having analysed the Communication in detail ECSA would like to give the following comments and suggestions on the individual items.

## **1. Port performance and hinterland connections**

ECSA fully shares the view that efficiency and productivity rates of existing capacity of ports and hinterland connections should constantly increase.

ECSA has noted that there is no intention towards a central planning and that this is left to Member States. This approach is fully supported. At the same time it should be stressed that there is an urgent need for expansion of port capacity and hinterland connections as referred to below. In this respect it would be helpful if the Commission would drive an analysis of future traffic flows in support of further investments.

## **2. Expanding capacity while respecting the environment**

In the ECSA submission to a European Ports Policy of June 2007 the expansion of port capacity and hinterland connections was brought forward as a priority point. We wish to reiterate this point.

ECSA appreciates the intention to issue Guidelines on the application of EU environment legislation such as Habitat, Birds, and Water Framework Directives. These Guidelines should be issued soonest in consultation with the industry and should provide legal certainty. They should also take into account that often there is an element of general interest in the expansion of ports and hinterland connections. This should also be seen against the fact that 90 % of European trade is transported by sea. The important role of short sea shipping (SSS) within the policy of co-modality should also be taken into account as, in many cases, the enhancement of port-hinterland connections is a prerequisite for SSS to play a growing role in the development of a more sustainable European transport system.

More appropriate waste reception facilities as well as an appropriate implementation of the Directive are necessary. In this respect the ongoing work of EMSA is fully supported.

Improving air emissions is an issue that is high on the agenda within the industry as well as with international institutions. It is evident that such issues have to be dealt with on a global basis (IMO). Shore electricity is an option on which there are still a lot of questions. As stated by Commissioner Kovács before the European Parliament in July 2007 the use of shore electricity is questionable since it will result in more emissions on the land when producing the electricity required.

## **3. Modernisation**

Key point is that unnecessary bureaucracy should be abolished. In this respect the initiative of creating a European maritime transport space without barriers doing away with such bureaucracy, especially for SSS trades, is appreciated. ECSA has made detailed suggestions in this respect in responding to the Commission's consultation questionnaires.

The introduction of more e-technology is certainly supported; however, as mentioned above the key point remains the reduction of bureaucracy.

ECSA has also responded to the Commission consultation process on KPIs. Main message is that a pragmatic approach with added value and without creating extra bureaucracy is essential. It is also important to realise that eventually the market itself decides on quality.

#### **4. A level playing field – clarity for investors, operators and users**

##### ***The role of port authorities***

ECSA has noted that the Commission does not intend to intervene towards harmonising the role of port authorities but leaves this to National Authorities and the market. This is in line with the views expressed by stakeholders during the consultation process and is supported by ECSA.

##### ***Public financing – Transparency***

ECSA refers to the views expressed in its submission of June 2007 and appreciates that the Commission will issue Guidelines in due course.

##### ***Port Concessions***

If there is a limitation on service providers a normal system of tenders/concessions should apply. In most ports tendering/concession systems already exist. These should be fair, transparent and relevant. Indeed tendering procedures should have a positive effect on the efficiency and costs on the port and the port users. The whole process of tendering should ensure that only the most efficient service providers with highly competitive price structures are successful.

Where there is no limitation to the number of service providers, there is no need to limit in time authorizations and/or concessions or to introduce unnecessary bureaucracy.

Concession periods should be set in such a way that they attract investments and also encourage competition. Extension of concessions in case of new investments during the concession period should also be considered to allow for a reasonable return on these investments. In this respect reference can be made to a suggestion brought forward in previous discussions allowing a possible extension of an existing concession for a period of 10 years once during the last 10 years of the validity of the concession, if significant investments in immovable assets have been made.

##### ***Technical – nautical services***

As stated in the different Workshops towage is a normal commercial service. ECSA is therefore surprised that the Commission considers it as a service of general economic interest and fears that this treatment could be used in some cases to introduce unnecessary restrictions to the freedom to provide services. There is of course as for many services a safety element involved, but any safety element should be based on a contestable safety risk assessment.

Nevertheless, it is confirmed in the Commission Communication that the Treaty Rules on competition and internal market (the freedoms) apply. This is valid for all technical – nautical services including Pilotage.

The Commission rightly refers to technical innovation such as remote pilotage to be developed as a valuable option for the future and to the use of Pilotage Exemption Certificates (PECs) for frequent users. Restrictive measures on PECs such as irrelevant language requirements should be abolished. In this respect it should be recognised that English is the bridge and the bridge/shore language.

### ***Cargo handling***

ECSA supports the Commission's view that the Treaty Rules on internal market (freedoms) fully apply to cargo handling including labour pools. We understand that in a number of ports discussions are taking place to adapt existing regimes accordingly. This process should be encouraged.

### ***Ports Dues***

More clarity on the different items that compose port dues, as well as more transparency on their relation with the relevant costs would be helpful. However, taking into account the divergence between different ports, harmonisation of port dues would have no added value.

As mentioned in the ECSA submission of June 2007 port tariffs and port service charges should be transparent and relevant. Shipowners should be charged only for those services that they actually use, the charge for a service should be based on the cost of providing it, and a port should be capable of demonstrating that this is so. Market forces should achieve this, given a competitive environment – and the setting of tariffs should therefore be treated as a commercial issue and left to individual ports.

An overall EU structure of port tariffs would be unworkable and create an unnecessary bureaucracy. State aid guidelines coupled to transparency would make an EU framework on tariffs superfluous. Problems with tariffs based on GT for ships built with high sides (ferries/roros/open top container vessels) should be solved on a commercial basis by promoting best practice.

### ***Competition with third countries***

ECSA agrees that cooperation with neighbouring countries should be encouraged. Bilateral discussions/agreements with the countries concerned would be the right vehicle to do so.

## **5. Establishing a structured dialogue between ports and cities**

Improving the public perception of maritime transport and ports is fully supported. The organisation of a maritime day or week can be helpful in this respect. The general public should be made aware of the indispensable role of maritime services and ports for European and global trades and for their daily life.

## **6. Work in Ports**

Proper qualification of all involved in port services is without doubt a must. However, the qualification criteria should be relevant. At the same time the four Freedoms of the Treaty are also applicable on port services. In this context the principle that service providers in ports have full freedom to engage qualified personnel of their own choice without imposed conditions –except relevant conditions on qualification, safety, and national social legislation in line with the Treaty–, should be fully respected. Existing arrangements that have been questioned should be assessed against existing EU legislation.

Qualification criteria can be left to the relevant National Authorities, however, a dialogue between providers and users should ensure that the criteria are relevant and transparent.

From the discussions in the six Workshops, ECSA understands that a social dialogue will be established for port services. This is a normal evolution as we have had a social dialogue with European seafarers for a long time.

However, ECSA wishes to stress that if port policy issues, as presently on the agenda, are discussed the users of ports and port services should de facto always be directly involved.

Moreover, this social dialogue should also address enhancing of efficiency and port productivity and in these aspects it would also be relevant an effective consultation with the users of ports and port services”.

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