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ECSA initial views on the EU Port Policy proposals

On 23 May 2013 the Commission adopted a Communication 'Ports: an engine for growth' and a proposal for a Regulation establishing a framework on market access to port services and financial transparency of ports.

European shipping contributes significantly to the growth of the EU ports and the development of the maritime cluster. Shipping remains inevitably the core prerequisite for the existence of ports and maritime clusters, as it represents the main provider of employment in EU ports and the affected services. Therefore, ECSA shares the rationale of the Commission to come up with a new EU Port Policy: ports and port services should not to be looked at in isolation but as key links of the supply chain in the context of co-modality. Ports have a key role to play in the necessary revival and growth of the economy. Inefficiencies must be addressed. More added value could and should be created in times of economic downturn.

The Communication

ECSA has underlined at numerous occasions the need for significant investments in ports and in particular in hinterland connections. These investments must be based on a long-term vision of the market' needs. Therefore, ECSA welcomes the fact that the Communication confirms the commitments of the proposed new TEN-T guidelines. ECSA furthermore welcomes the Commission's intention to further address administrative simplifications. Burdensome requirements of customs procedures, immigration, sanitary, phyto-sanitary and other controls are very detrimental to the attractiveness and efficiency of maritime transport.

The legislative proposal

The proposed Regulation contains some good elements; however a detailed analysis is still to be made.

The freedom to provide services

ECSA welcomes the fact that the proposed text recognises that the freedom to provide services applies to port service providers and that rules to ensure fair competition are put forward. Applying the four freedoms of the Treaty has been requested by European shipowners for a number of years. ECSA is pleased that the Commission is taking up its role as guardian of the Treaty. Shipowners can accept that for some port services restrictions might apply, however such restrictions must be subject to strict conditions. There must be a clear justification for the limitations and they must be proportional and transparent. They can never lead to the distortion of competition, such as the abuse of a dominant position. In this respect, the proposal is balanced and supported by ECSA.

However, ECSA could not identify any logical or legal ground for the Commission's decision to exclude port labour, cargo-handling and passenger services from the application of the freedom to provide services. ECSA regrets this decision. The study made for the Commission on port labour by Portius clearly demonstrates and extensively documents that although port labour in many EU ports works well, there still exist restrictive practices in several ports on which action has to be taken. A solution to address this issue has to be found one way or another.

The fact that the port labour issue will be discussed in the Social Dialogue for Ports, does not entirely reassure shipowners. ECSA is a supporter of the social dialogue mechanism and has been involved in a social dialogue with the European Transportworkers Federation (ETF) for more than 20 years, which has produced concrete results. Though, the scope of the social dialogue is limited and does not cover the application of the Single Market principles (the four freedoms) and competition rules. The issues dealt with within a social dialogue relate to working conditions, health and safety, training and qualification, attracting young people to the maritime sector, etc.

The social dialogue for ports can therefore be seen as one step. However, ECSA also urges the Commission to ensure and clarify that the excluded topics will be discussed at other fora and earlier than 2016. Today, in times of crisis, the EU cannot afford to wait till 2016 with addressing the identified inefficiencies. Well performing ports and port services are crucial to ensure an efficient and sustainable transport system. Crucial to be discussed in this context are ways and means to increase labour flexibility. Users are prepared to take part in discussions on this issue, that highly concerns them and that clearly has an impact on them. In times of crisis, the potential of the European port sector should not remain untapped.

Financial transparency

More transparency on public funding and charges is in principle welcomed. Shipowners want to know what they pay for. Tariffs and charges must be transparent and relevant while leaving some room for commercial negotiations, including with regard to charges for port reception facilities. ECSA will assess in further detail the impact of the transparency rules of the proposed Regulation for shipowners.

Users' consultation

ECSA fully supports the compulsory consultation of port users, among others through the port users' advisory committee, on charges, the coordination of port services, hinterland connections, administrative simplification and other relevant issues.

Conclusion

Overall, ECSA welcomes the new EU Port Policy initiative. The Communication and proposed Regulation contain some very good elements, but further in depth analysis will be made.

The recognition of the application of the freedom to provide port services is very much appreciated, however ECSA could not identify any legal or logical rationale for the exclusion of cargo handling services, port labour and passenger services. This must be reassessed and addressed in one way or another. In the end, all maritime and logistics operators are part of the same logistics chain and will benefit from an even better functioning network. No services can be dealt with in isolation from the overall discussions on transport policy.

ECSA is fully prepared to engage into a dialogue with all concerned parties and the EU institutions.

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