

REPORT
ON THE OWNERSHIP, MANAGEMENT
AND PORT-RELATED USE
OF THE FORESHORE
IN SELECTED EU MEMBER STATES

Irish Ports Association 2008
© Prof Dr Eric Van Hooydonk
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Overview

- Foreshore = area between average high tide mark and average low tide mark
- Conflicting interests
- Issues
 - Ownership of the foreshore
 - Division of competencies between state and ports
 - Legal requirements and conditions of use for port expansion projects in the foreshore
 - NOT maintenance dredging, buoying, environmental issues or spatial planning issues
- Report is purely descriptive

IRELAND

- State ownership unless private title
- Most competencies: State government
- State ownership of trading ports
- Requirements and conditions of use:
 - Foreshore lease or licence
 - Foreshore permissions
 - Planning permission
 - New strategic consent procedure

IRELAND

- Development by local authority
 - Permission of An Bord Pleanála
 - Power of compulsory acquisition
 - Alternative: lease or licence
- Transfer of ownership to ports ?
- Procedural reform ?

UNITED KINGDOM

- Owned by the Crown Estate (55%), local authorities, port authorities, statutory bodies, government departments, ...
- Competencies: government departments
- Private ports, trust ports, municipally owned ports
 - Power to acquire land
 - Compulsory acquisition
 - Licencing power

UNITED KINGDOM

- Requirements and conditions of use:
 - Purchase, lease or licence (usually high prices)
 - Harbour revision order, harbour empowerment order or order under the Transport and Works Act 1992
 - Planning permission
 - Consent under Coast Protection Act 1949
 - Licence under Food and Environment Protection Act 1985

FRANCE

- Public domain of the State
- Competencies: State administration
 - Préfet (Prefect)
- Autonomous ports of the State, ports managed by territorial collectivities
- Compulsory acquisitions for large works

FRANCE

- Requirements and conditions of use:
 - Transfer of ownership or transfer of management
 - Decentralised ports: decision by Prefect if no specific maritime planning instrument
 - Autonomous ports: consent of the Minister for substantial works which require State funding
 - Consultation of the nautical commissions
 - Guidelines for decision-making

BELGIUM

- Public domain of the Flemish Region
- Competencies:
 - Department for the Coast of the Flemish Ministry of Mobility and Public Works
 - Port authorities:
 - Management of public domain goods
 - Acquisition and compulsory acquisition
 - Power to perform works on all domain goods if approved by owner

BELGIUM

- Requirements and conditions of use:
 - Concession or control right
 - For works by a private company
 - Licence
 - Public works concession: removal from public domain and subsequent building lease
 - Permission under Coast Regulations

THE NETHERLANDS

- Presumed property of the State
 - Some parts: private owners, nature protection organisations, a province
- Competencies:
 - “Rijkswaterstaat”
 - Department for agriculture, nature and food quality
 - Provinces and municipalities
 - “Waterschappen”

THE NETHERLANDS

- Ports administered by municipal entities, “havenschappen” or corporate bodies
- Rotterdam: limited company
 - 75 % City of Rotterdam
 - 25 % State
- Compulsory acquisitions for harbour works

THE NETHERLANDS

- Requirements and conditions of use:
 - Purchase or right of use
 - Concession for land reclamation
 - Licence for construction or deposit of substances
 - Licence from the “waterschap”
 - Licence for dredging

NORWAY

- Property of the owner of the adjacent land
- Competencies:
 - Owner exercises property rights
 - State: main navigation channels and territorial sovereignty
- Ports owned by municipal port authority or private person

NORWAY

- Requirements and conditions of use:
 - Foreshore not owned by port: agreement with owner or compulsory acquisition
 - Private ports:
 - Permission by local port authority
 - Planning permission

DENMARK

- No legal owner
- State has territorial sovereignty
- Competencies: Ministry on Transport
 - Some delegated to Coastal Authority
- Ports owned by State (1), municipality or private

DENMARK

- Requirements and conditions of use:
 - No rights or acquisition necessary
 - Permit from the Coastal Authority
 - Planning permission
 - Project within port, with no environmental impact: no permission required

SOME TENTATIVE CONCLUSIONS

- General legislative framework for ownership and management of the foreshore is rare
- Generally applicable tariff or financial conditions is rare
- Legal uncertainty in most countries
- Strong State involvement in many EU countries
- Foreshore management issues dealt with on an ad hoc-basis

Contact

- Eric Van Hooydonk

T +32 3 238 67 14

eric@ericvanhooydonk.be

www.ericvanhooydonk.be