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INTRODUCTION BY MINISTER

The core objective of the Department's Strategy Statement 2003 – 2005, in relation to ports is "to provide a framework for the provision by port companies operating within the national transport chain of port services which are efficient, effective and adequate for the needs of our growing economy".

May 2003 saw publication of the High Level Review of the State Commercial Ports operating under the Harbours Acts 1996 to 2000. This was the first review undertaken since enactment of the Harbours Act 1996. This legislation had removed Ireland's key ports from direct Departmental control and given them the commercial freedom to operate as modern customer oriented service industries. The remit of the review was to critically examine the current model for the governance of the State commercial ports.

On foot of publication of the review, a comprehensive consultation process was initiated which involved interested parties making both written and oral submissions in relation to future ports policy. I would like to thank all those who responded. The results of this consultation process have fed into and informed the content and recommendations of this policy statement.

Our ports have undergone a period of considerable change over the last decade. They have improved significantly in terms of competition, management structures and overall efficiencies. This review and resulting policy statement are timely in order to ensure that our ports continue to function efficiently as our economic gateways to the rest of the world. These are vibrant times for the Irish economy; the future for our ports is bright but challenging!

This document identifies important policy issues to be addressed by the Department in the short to medium term. The policy initiatives contained in the document will aim to ensure that, in line with the Programme for Government, our ports are equipped to grow as an integral part of our economic prosperity.

Pat the Cope Gallagher T.D.
Marine Minister

EXECUTIVE SUMMARY

DEVELOPMENT OF IRISH PORTS

Irish Ports have developed from being essentially public utilities with unclear mandates to entities with clear commercial mandates.

While continuing in State ownership, the ports are regarded as operating in an efficient and largely cost effective manner.

Private sector involvement in providing port services has increased and is welcomed as ports move towards the "landlord" model.

Ports have encountered increased regulatory and operational burdens arising from environmental and security measures.

COMMERCIAL ROLE FOR PORT COMPANIES

The ports are essential pieces of public infrastructure, carrying 99% by volume of the island's foreign trade.

Current policy is to require the ports to operate commercially, without Exchequer support, and to provide adequate in-time capacity for the future needs of the economy; private sector investment is encouraged.

Given the crucial need to avoid inefficiencies and bottlenecks in port services provision into the future, this current policy requires close review.

It is the Minister's view that, if it can be demonstrated that the regional or national economies require port capacities in the future that cannot be met through efficiencies, optimum use of existing resources, increased charges, or the private sector, there may be a role for focused provision using limited Exchequer funding.

Non-core assets are in general available to the ports to assist in funding new port developments. However, the often fortuitous availability of such an asset base must not mask inefficiencies or lead to sub optimal investment having regard to potential opportunity costs elsewhere in the sector.

Pension liabilities exist in 3 port companies. Current policy is that they are not required to meet the actuarial funding standards of the Pensions Act 1990 until 2008. Independent advice may be sought in relation to the measures required to discharge pension liabilities in Shannon Foynes and Waterford.

Consideration will be given to the possible adaptation of the provisions of the Landlord and Tenant Acts to the particular circumstances of the ports.

INTEGRATED TRANSPORT POLICY

Ports operate at the interface between two essentially quite different modes of transport. A crucial role of ports is to facilitate the movement of goods from sea to road and rail transport.

It is expected that the ports would ensure seamless onward connections between the various transport modes in consultation with operators, including state agencies.

While strategic issues are progressed closely between the Department of Communications, Marine and Natural Resources and the Department of Transport, it is the Minister's view that it is necessary to intensify co-ordination between the two Departments in order to ensure effective integration of transport policy across all modes.

SEAPORT CAPACITY

The provision of adequate and efficient capacity into the future is a crucial strategic objective of the Government.

Most recent capacity requirement predictions point to a lower than previously anticipated shortfall. Nonetheless, a shortfall of 12.2 million tonnes is predicted over the next 10 years.

Given long lead in times and the essential need to have in-time capacity in place, it is essential that a policy framework within which to identify, fund and progress any new capacity additions is put in place as soon as possible.

The Minister envisages progressing this as follows:

- urgent consultation with ports and private sector providers as to their views on capacity needs, plans they might have to provide them and how they might be funded;
- prioritisation of a range of projects according to their location, contribution to regional and national capacity requirements, funding, impact on externalities, efficiencies and cost;
- the selection of a small number of high quality projects to be chosen on the basis of a focused process aimed at providing required capacity while at the same time obviating or minimising Exchequer costs.

FUNDING OF INFRASTRUCTURE REQUIREMENTS IN THE PORT SECTOR

EU funding up to 2000 has essentially underpinned a significant improvement in port capacity, leaving the ports well positioned to handle demand in the short to medium term.

With 1 or 2 possible exceptions, the medium to long term capacity constraints in unitised trade cannot be funded through the ports' own resources.

The Minister envisages a process aimed at identifying a small number of projects to meet the capacity deficit identified. The aim of the process will be to involve all stakeholders in such provision, with limited Exchequer recourse as residual financier only, within capital resources available, where clearly demonstrated as essential to progress the project on a self-sustaining basis.

COMPETITION

Competitive conditions are present both within and between ports. Dublin does not experience significant competition from outside but does accommodate vibrant competitive conditions within the port.

The Minister will continue to monitor the health or otherwise of competitive conditions and will seek to ensure that:

- ports uphold the principles in the EU Directive on Market Access to Port Services and thereby maximise private sector involvement in port service and capacity provision;
- capacity constraints do not lead to dominant or monopolistic conditions in services and/or capacity availability.

REGULATION

The case for a regulator of the ports is not proven.

While the Minister will keep the matter of appointing a regulator under review, he does not intend to progress it at present.

Instead the Minister proposes the following:

- disputes between port stakeholders and the port will be addressed to an arbitrator whose opinion will be binding;
- parties to disputes will agree the terms of the recourse to and selection of an arbitrator;
- the facility will be available to all port stakeholders.

The Minister will consider putting the arbitration facility on a statutory basis, if necessary.

MERGERS

The facility to transfer or amalgamate the functions of port companies is an important policy option, subject to competition considerations.

The Minister sees groupings and partnerships of ports as options to reduce costs, create synergies and improve marketing and critical mass.

The Minister would, in the first instance, encourage ports to fully explore such options as a means of improving financial and business performance and providing better services.

The Minister will expect and be supportive of any considered proposals from ports, whether sharing estuary or hinterlands or in different locations.

PRIVATISATION

Privatisation in the context of ports is complex and sometimes simplistically presented, given the high level of penetration of ports by the private sector. The fact is that the potential and strategic significance of the ports varies between one port and another.

The Minister intends to:

- maintain an open mind on privatisation of port ownership, per se;
- in the meantime, maximise private sector involvement (including funding) in the ports.

The Minister regards as a guiding principle, however, the maintenance of open and competitive conditions in ports and the avoidance of monopolies, public or private.

CONSULTATION WITH PORT USERS

It is firm policy that structured engagement with port sector stakeholders should occur at all levels, whether at the strategic or policy level with the Minister and Department or at the operational level with port operators.

The Minister and Department are open at all times to consult with port stakeholders at a group (or representative) level or individually on all matters of concern. They are committed to ensuring that change at the policy/strategy level is designed, implemented and progressed in full consultation with relevant stakeholders.

It is not considered that the case is sufficiently made for a national users forum whereas merit is seen in local users fora.

The Minister sees the combination of an "open door" approach on his and the Department's behalf, local port users fora and the proposed arbitration facility as constituting an adequate suite of measures for productive engagement.

PORT COMPANY BOARDS

Given their role and status as commercial entities, it is essential that Boards are competent, smaller and more focused and clearly aligned, on an individual member level, solely on the achievement of the commercial objectives and well being of the port company.

Members should have the appropriate mix of competencies and skills to contribute to advancing the business and corporate governance of the company.

Local authority representation should be reduced to 1, staff representation should be confined to 1 regardless of numbers of staff and user representation should cease.

A panel of appropriately skilled potential Board member candidates should be established and drawn upon to fill Board positions as appropriate.

ROSSLARE HARBOUR

Rosslare Harbour is a major component of Ireland's essential ports infrastructure.

It is noted that the Department of Transport is currently looking at modernising the legislation governing the status of the port which comes under the aegis of Iarnród Éireann.

The Department will continue to liaise with the Department of Transport regarding the future of Rosslare Harbour.

REGIONAL HARBOURS

The continued operation of many of the regional harbours under the outdated provisions of the Harbours Act 1946 is unsustainable on the grounds of good governance.

The Minister reiterates the view that most of these harbours would best achieve their potential through their transfer to local authority ownership or, where this is not possible, through sale to the private sector.

In harbours where significant commercial traffic exists, consideration will be given to bringing them under the control of a port company.

The Department is currently progressing a due diligence study of assets and liabilities (including contingent liabilities) in the context of pursuing the transfer of the regional harbours to local control.

DEVELOPMENT OF IRISH PORTS

All of Ireland's trading ports, with the exception of Greenore and Rosslare, are in State ownership.

Prior to the corporatisation of the key commercial ports in 1997, 24 commercial ports and harbours operated as harbour authorities under the Harbours Act, 1946 and were essentially run as public utilities. To a certain extent, the sector was characterised by local monopolies, an essentially non-commercial mindset, and dock labour inefficiencies were prevalent. The sector experienced low growth, lack of competitiveness and suffered market penetration by Northern Ireland ports. The Harbours Act 1946, was anachronistic and inappropriate to the commercial entities into which the ports had evolved.

Recognising that the ports were constrained in their ability to respond commercially under existing structures, the Harbours Act 1996 facilitated the establishment of commercial State port companies. The new structure allowed ports the freedom they required to act commercially and to provide cost effective and efficient services to meet the needs of their customers, the State and the national economy. The extent to which the commercial mandate assists or otherwise the ports in having regard to national or regional "public good" considerations is considered further in the next section of this document. Since corporatisation, there has been significant progress in the sector in that ports are more competitive, there has been major organisational and cultural change, better management and significant rationalisation of port operations.

Today, there are 10 ports operating as commercial State port companies (listed at Appendix I). There are also 13 harbour authorities operating under the Harbours Act 1946 (listed at Appendix II). These latter harbours range from those with some commercial traffic to those that have experienced gradual decline in terms of commercial and seaborne trade and now exist only to service the local economies that depend on them for seafishing and marine leisure. The Harbours Act 1946 is no longer appropriate governing legislation for these regional harbours and it is Government policy in general to transfer them to local control, where maximum utilisation and benefit for the local regions can be realised. This is likely to be achieved by fully developing the amenity value of these maritime facilities.

Many of the key commercial ports have evolved into landlord ports which essentially provide a mix of public and private ownership and operation. Dublin Port is a prime example of a landlord port, with 4,000 people working in the port area but some 270 employed by the port company itself. The Department, and many of the interested parties who made submissions, are generally supportive of the trend of vertical dis-integration of some ports whereby the port companies are moving towards the landlord model, leaving the provision of non-conservancy functions to private sector operators. At the same time, the Department recognises that this may not be the only solution in every scenario. In some instances, lack of private sector appetite (associated in many cases with the high market entry costs for intra-port service provision), as well as the operation by some port companies of multi-user facilities, may dictate a more proactive role for port companies.

The Department notes that developments at the EU and international levels, for example, enhanced requirements for environmental protection and maritime security, have increased the regulatory and operational burdens on ports. The Department recognises the need to ensure that the ports are fully consulted in relation to future developments in these areas.

SUMMARY

- Irish Ports have developed from being essentially public utilities with unclear mandates to entities with clear commercial mandates.
- While continuing in State ownership, the ports are regarded as operating in an efficient and largely cost effective manner.
- Private sector involvement in providing port services has increased and is welcomed as ports move towards the "landlord" model.
- Ports have encountered increased regulatory and operational burdens arising from environmental and security measures.

COMMERCIAL ROLE FOR PORT COMPANIES

Ireland, as an island, is dependent on seaborne trade and the economic significance and importance of our ports to the prosperity of the country is self-evident. Given our small open economy, Ireland's international competitiveness is central to overall economic performance.

Our ports are vital gateways for commercial freight and sea passengers. This is highlighted by the fact that 9 of the 10 commercial State port companies are located in areas identified as gateways in the National Spatial Strategy. Almost all of Ireland's overseas trade goes by sea, underlining the commercial significance of ports and their strategic importance.

Measured by volume, 99% of the island's foreign trade uses the maritime supply chain. It is estimated that the value of these imports and exports through sea ports in the Republic was €130 billion for 2003, compared to a figure of €7 - 10 billion through airports. By contrast, the situation is different in terms of passenger numbers with some 20% of the tourists who visited Ireland in 2003 having arrived via our seaports.

As mentioned in the previous section, most of the ports are State-owned companies with statutory commercial mandates and operational criteria. The port companies are required to take all proper measures for the management, control, operation and development of their harbours and are required to conduct their business at all times in a cost effective and efficient manner. As mentioned, this has led to a strong independence of action and a focused commercial mindset.

The shareholder expects that the port companies, as commercial entities, should be capable of funding their operations and infrastructural requirements without relying on Exchequer support. The port companies are, therefore, encouraged to seek financial assistance from other avenues such as private sector investment within ports. The shareholder wishes to make it clear that, for the future, ports which cannot meet ongoing costs and are unable to trade solvently may have no alternative but to cease trading in their present form. To date, the Minister as shareholder has not sought a dividend in respect of shares held by him or by the Minister for Finance. However, dividend policy is kept under review.

While our ports are clearly commercial entities, it cannot be overlooked that they can act as engines of regional economic growth and that they are also essential pieces of public infrastructure, which it is Government policy to ensure are sufficient and appropriate to meet the needs of the economy. The Department acknowledges that it must reconcile the possible tensions in these two roles. Accordingly, it must be accepted that a policy stance which, on the one hand, requires the ports to operate and invest solely on the basis of commercially sustainable returns and which, on the other hand, does not provide for the possibility in any circumstances of recourse to the Exchequer, is unlikely to deliver a public infrastructure capacity in the ports adequate for regional and national economies.

Significant shortfalls in port infrastructure capacity could result in serious damage to the economy. While not ruling out any possibility of Exchequer support in the future it must be recognised that such support will only be considered in cases where it is clearly demonstrated that State intervention is essential as the residual financier after opportunities available to the ports themselves (through efficiencies, optimum use of existing resources and port charge adjustments) and to the private sector (through direct investment and/or joint ventures) are exhausted and that the funding will contribute to national capacity requirements. Funded projects would, of course, be subject to rigorous capital appraisal.

NON CORE ASSETS

The ports have, for historic and fortuitous reasons, often inherited significant property portfolios. In many cases, the migration of ports downstream of their original, often city/town centre, locations has meant that this non-core business asset portfolio has become extremely valuable. At the end of the day, this windfall appreciation represents a value to the shareholder and cannot, in most cases, be attributed to portfolio management by the port.

While the Department has been supportive of the application of the proceeds of disposals of these assets to new port developments, it wishes to emphasise that such funding of new developments does not imply a departure from rigorous capital appraisal. The Department also wishes to ensure that the opportunity cost to the Exchequer (of funding developments through such disposals), has regard to other potential demands in the ports sector. Finally, the shareholder will not accept, except within the context of a fully worked up and realistic business plan, the application of proceeds from sales to fund ongoing deficiencies.

PENSIONS

Three of the port companies, namely Dublin, Shannon Foynes and Waterford inherited significant pension fund deficits from the preceding harbour authorities. As a matter of policy, it is accepted that these companies should not be subject to the funding standard requirements of the Pensions Act 1990 until the year 2008. This would be intended to give the companies a reasonable opportunity to clear the deficits inherited on vesting day.

Dublin Port Company advises that it is on target to have the deficit cleared by 2008. The Department will consider commissioning an independent examination of the position in relation to pension fund deficits at the other two commercial ports and to identify all feasible measures that may need to be taken by the companies to ensure that the liabilities are addressed.

LANDLORD AND TENANT ACTS

The Department acknowledges the view of port companies that the provisions of the Landlord and Tenant Acts impose restrictions on their ability to effectively facilitate the development within their ports of an efficient and competitive market for port services, including new entrants.

As recommended by the High Level Review, the Department intends to give consideration, in the context of future legislative changes, to the possible adaptation of the provisions of the Landlord and Tenant Acts to the particular circumstances of the ports.

SUMMARY

- The ports are essential pieces of public infrastructure, carrying 99% by volume of the island's foreign trade.
- Current policy is to require the ports to operate commercially, without Exchequer support, and to provide adequate in-time capacity for the future needs of the economy; private sector investment is encouraged.
- Given the crucial need to avoid inefficiencies and bottlenecks in port services provision into the future, this current policy requires close review.
- It is the Minister's view that, if it can be demonstrated that the regional or national economies require port capacities in the future that cannot be met through efficiencies, optimum use of existing resources, increased charges, or the private sector, there may be a role for focused provision using limited Exchequer funding.
- Non-core assets are in general available to the ports to assist in funding new port developments. However, the often fortuitous availability of such an asset base must not mask inefficiencies or lead to sub optimal investment having regard to potential opportunity costs elsewhere in the sector.
- Pension liabilities exist in 3 port companies. Current policy is that they are not required to meet the actuarial funding standards of the Pensions Act 1990 until 2008. Independent advice may be sought in relation to the measures required to discharge pension liabilities in Shannon Foynes and Waterford.
- Consideration will be given to the possible adaptation of the provisions of the Landlord and Tenant Acts to the particular circumstances of the ports.

INTEGRATED TRANSPORT POLICY

Irish ports constitute a fundamental link in the supply chain to and from our trading partners. It is essential that they are properly integrated with other transport modes.

The Ministerial Task Force in relation to transport logistics in connection with ports was set up in 2001 against a backdrop of concerns about developing congestion around the major ports and industry concerns about the decline in rail to port throughputs.

The key issues highlighted by the Task Force included:

- The importance of ports as a vital link in the logistics chain between producers and their customers and the effect any inefficiencies can have on the competitiveness of our economy;
- The serious congestion close to ports;
- The lack of priority accorded to commercial freight generally in the transport policy framework and the need to identify it as a sector of primary national interest.

The Task Force concluded that "traffic problems in the vicinity of ports are just part of the wider issue regarding the development and operation of all aspects of the transport system in Ireland. While the sector can take some actions, the solution to the problem requires that all transport related initiatives are properly integrated".

To ensure balanced regional development, the Programme for Government accorded full recognition to the importance of competitive access maritime transport. In particular, the Government committed to ensuring that our ports are equipped for the demands of our growing economy through investment and development of seamless transport systems between all modes. This has been demonstrated, for example by Government investment in projects such as the Dublin Port Tunnel and the Shannon Foynes access road.

In 2002, the new Department of Transport was established. While ports remained under the aegis of the Department of Communications, Marine and Natural Resources, the Department works closely with the Department of Transport on matters relating to transport policy, particularly those issues which have a direct or indirect effect on port services. The Department is represented on the Integrated Transport Policy Group which is chaired by the Department of Transport. However, the Minister is of the view that it is necessary to intensify coordination between the two Departments in order to ensure effective integration of transport policy across all modes. Meetings involving the two Ministers will serve to ensure optimal development of policy at the highest governmental level.

Current EU transport policy is focused on an integrated transport network, with short sea shipping a priority to decongest roads and minimise environmental impacts. Ireland is fully supportive of this approach. With increasing European trends towards road tolling, the importance of developing short sea shipping routes will become ever more critical. Ports will have a key role to play in exploiting opportunities to promote such new routes.

SUMMARY

- Ports operate at the interface between two essentially quite different modes of transport. A crucial role of ports is to facilitate the movement of goods from sea to road and rail transport.
- It is expected that the ports would ensure seamless onward connections between the various transport modes in consultation with operators, including state agencies.
- While strategic issues are progressed closely between the Department of Communications, Marine and Natural Resources and the Department of Transport, it is the Minister's view that it is necessary to intensify coordination between the two Departments in order to ensure effective integration of transport policy across all modes.

SEAPORT CAPACITY

A key issue to be addressed is whether the commercial ports can be mandated or are in a position, given limited resources, to deliver sufficient capacity to handle cargo in the medium to long term. Looking at projections for the ports sector as a whole, there appears to be adequate capacity. However, there are large segments of unused capacity at certain ports. This capacity is located at some industrial sites where, for geographical or other reasons, it is unlikely that demand will ever materialise.

In 1998 and again in 2000, independent consultants Baxter Eadie Ltd., in association with ORM Consulting, were commissioned to prepare an inventory of port capacity and prepare projections of need to 2007. The studies found that, while there were likely to be surpluses of capacity at certain ports, there were also going to be significant shortfalls at some of the key ports, particularly in relation to unitised trade. These findings are significant given that unitised trade is currently the dominant mode of port traffic, equating to almost a third of all traffic handled and particularly in light of the anticipated growth in the sector as identified in the High Level Review.

The Department recently commissioned a desk study update by Baxter Eadie Ltd. of the capacity report, in order to identify the effect Ireland's changing economic circumstances has had on projected capacity at commercial seaports. The study takes into account current economic growth projections and looks at capacity up to 2014.

The study has been completed using economic forecasts based on data from the ESRI Medium Term Review and the Central Statistics Office. The consultants predict a slightly lower rate of growth in GNP than that identified in the ESRI review. This reflects changes in global economic circumstances since publication of the ESRI report and specifically takes into account the devaluation of the dollar against the euro. It also takes account of actual growth rates since the last study. The current study has been completed after 3 years of modest growth and this is reflected in the end results.

As a result of lower historic and forecast growth the findings indicate a lower overall utilisation of capacity than that shown in the previous study, currently 49% rising to 55% by 2007. The previous study had predicted utilisation of 70% by 2007. When considering these figures, due account must be taken of the fact that much of the unutilised capacity is located at sites in respect of which it is unlikely that demand will ever materialise and that many of the key ports are, in fact, already at or close to reaching maximum capacity utilisation, in respect of certain types of trade.

Looking to 2014, the study has found that projected traffic will have increased by 16.3 million tonnes, some 35% over tonnage handled in 2003, while growth in capacity over the same period is projected at a very low level, about 1% over the period. This is based on known changes which have full approval for implementation. Other plans for infrastructure improvements are excluded.

A capacity shortfall of 12.2 million tonnes is predicted by 2014. The table at Appendix III shows the breakdown of capacity shortfalls for 2014 at each of the ports and between the various cargo modes. The table at Appendix IV provides a summary of the findings of the 2004 update.

While the shortfalls in capacity identified for 2014 are below those previously predicted for 2007, Baxter Eadie Ltd. point out that the situation warrants decisions and further action in order to avoid increasing delays and congestion in some ports, particularly for unit load cargoes in the short term. Forward planning is imperative, particularly given the lengthy lead in times for infrastructural projects at the ports. The Department is aware of the difficulties faced by ports in this latter regard and will be supportive in terms of policy stance where appropriate.

The Department recognises that the study by Baxter Eadie Ltd. is necessarily an inexact exercise, the implications of which will need to be checked against actual experience in each of the ports. Indeed, some ports have expressed the view that the Baxter Eadie study has understated the capacity requirements in their case. Accordingly, the Department proposes to proceed quickly in relation to the implementation of the policy framework designed to avoid the possibility of capacity bottlenecks occurring at particular ports where cargo throughput, especially in the unitised trades, may be growing at the higher end of expectations.

The Department intends to consult with all commercial ports concerned to determine their view of port capacity and how they intend to deal with the projected capacity shortfalls or even to maintain existing capacity in instances where the ever increasing size and speed of container ships is threatening the adequacy of existing port facilities. The Department is interested in the key projects identified by the commercial ports as essential to deal with anticipated capacity deficiencies to 2007 and beyond, and whether the ports see these being funded from their own resources or from the private sector. The Department will also consult closely with current and prospective private sector service providers regarding the potential for and/or constraints on entry to the ports services sector and on an optimal framework to deliver private sector investment in the ports.

Following this process, the Department intends to commission a more comprehensive study which will look at capacity availability on the island as a whole with emphasis on the main transport corridors and key trade routes. This study will prioritise a range of projects at our commercial ports from an overall economic and regional perspective, as opposed to the perceived requirements of individual ports. Among the key criteria for such prioritisation would be locational significance in relation to transport corridors, absence of city pressures, likely efficiencies and cost, availability of private sector funding and compatibility with EU State Aid rules. The Government envisages that a small number of high quality projects will emerge from this process and that "winning" projects will be selected through an appropriate competitive arrangement.

SUMMARY

- The provision of adequate and efficient capacity into the future is a crucial strategic objective of the Government.
- Most recent capacity requirement predictions point to a lower than previously anticipated shortfall. Nonetheless, a shortfall of 12.2 million tonnes is predicted over the next 10 years.
- Given long lead in times and the need to have in-time capacity in place, it is essential that a policy framework within which to identify, fund and progress any new capacity additions is put in place as soon as possible.
- The Minister envisages progressing this as follows:
  - urgent consultation with ports and private sector providers as to their views on capacity needs, plans they might have to provide them and how they might be funded;
  - prioritisation of a range of projects according to their location, contribution to regional and national capacity requirements, funding, impact on externalities, efficiencies and cost;
  - the selection of a small number of high quality projects to be chosen on the basis of a focused process aimed at providing required capacity while at the same time obviating or minimising Exchequer costs.

FUNDING OF INFRASTRUCTURE REQUIREMENTS IN THE PORT SECTOR

The port companies have successfully accommodated rapid traffic growth over the past decade. This has largely been facilitated by extensive EU funded investment in the 1990s. It is important to ensure that ports are positioned to continue to handle traffic growth in the short to medium term.

The historical lack of investment in ports is reflected by the fact that between 1970 and 1988 total co-financed investment in ports amounted to some €47 million. The next decade saw a considerable increase in investment in ports, with the assistance of EU structural funds, resulting in total co-financed investment amounting to some €290 million.

It was envisaged that the Seaports Measure of the National Development Plan 2000 – 2006 would support a total investment in commercial ports of some €180 million. This was intended to put port capacity on a sustainable basis, allowing the ports to go forward without further recourse to the public purse. However, primarily due to financial constraints, this measure has had to be truncated and is now likely to support a total investment amounting to €80 million over the 7 year period of the current National Development Plan.

As discussed in the previous section, the ports are now facing into a future where they will be required to make significant long-term and as yet unquantified capital investment decisions without Exchequer or EU support. In terms of financial scale, there are significant variations between the ports. While the majority of ports are profitable at the operational level, financial returns are generally below commercially acceptable levels. Based on operating cash flow, most of the ports, with the exception of Dublin and possibly Cork, could not afford significant new investment without external financial assistance. Private sector investment is, prima facie, not forthcoming reflecting, no doubt, the high and long term difficult cash flow implications of major new capacity investments.

There is no doubt that the ports must now position themselves to address capacity constraints identified for the future. Given the planning, construction and lead in times associated with infrastructural projects at ports, consideration must be given to this issue as a matter of urgency.

As previously stated in this document, the Department would like to see a situation where the port companies fund their operations and infrastructural requirements, either solely or by other avenues including private sector investment within ports, without recourse to the Exchequer. It is acknowledged, however, that a rigid policy stance of no Exchequer support may not be realistic in all circumstances.

Accordingly, as indicated previously, the Department may in exceptional circumstances consider Exchequer assistance in respect of infrastructural projects which clearly demonstrate their contribution to national capacity deficits. State involvement in funding such developments should not be a first resort, however. Promoters of such projects, whether from the public or private sector, would have to demonstrate that all other avenues had been explored before consideration would be given to Exchequer support. As stated previously, any such proposals would be subject to rigorous capital appraisal and the range of other criteria set out. In any event, Exchequer support, within the capital resources available, would only be considered where the project is demonstrably self-sustaining into the future.

A possible avenue for funding of port infrastructure is the linking of capacity requirements with funding under TENS-T[1] as part of the EU Motorways of the Sea Programme. The Irish Maritime Development Office is currently in communication with ports to identify potential projects which could qualify for funding under this programme. The programme is still being finalised but the Department would encourage port companies to investigate this as a possible avenue for funding infrastructural projects, in line with the EU and Government commitment to the development of short sea shipping.

It is worth noting in the above context that the UK freight facilities grants scheme has been approved as a maritime state aid by the European Commission. The UK provides for at least £9 million per annum to be invested via this scheme into freight facilities which encourage the movement of goods from road to water. It specifically allows for investment in port infrastructure as a means to attract and aid this development.

[1] *Trans European Networks – Transport.*

SUMMARY

- EU funding up to 2000 has essentially underpinned a significant improvement in port capacity, leaving the ports well positioned to handle demand in the short to medium term.
- With 1 or 2 possible exceptions, the medium to long term capacity constraints in unitised trade cannot be funded through the ports' own resources.
- The Minister envisages a process aimed at identifying a small number of projects to meet the capacity deficit identified. The aim of the process will be to involve all stakeholders in such provision, with limited Exchequer recourse as residual financier only, within capital resources available, where clearly demonstrated as essential to progress the project on a self-sustaining basis.

COMPETITION

Competition is essential in any marketplace to promote efficiency, stimulate innovation and enhance overall national competitiveness. Public policy priorities must, therefore, focus on the delivery of efficient and competitive infrastructure to support our open economy.

The seaports sector is characterised by high barriers to entry and this has a tendency to place significant market power in the hands of existing players. This creates a risk that the larger players can engage in anti-competitive practices resulting in higher port charges which can mask underlying inefficiencies in the delivery of port services. A similar risk exists with private sector service providers within ports.

Historically, ports have suffered from restrictive practices, notably in cargo handling. It was envisaged that the proposed EU Directive on Liberalisation of Market Access in the Provision of Port Services, which was narrowly defeated in the European Parliament, would have had a significant impact in enhancing the competitiveness/productivity of the major ports. The European Commission has recently launched a second proposal for a Directive on Market Access to Port Services. The issue now has to be addressed as to how the positive aspects of the Directive might be progressed.

In considering this, it is relevant that most ports have open and active private sector participation. Therefore, competition must be looked at from two aspects, competition within ports and between ports.

COMPETITION WITHIN PORTS

Studies[1] have concluded that competition within ports does exist. The large number of small haulage companies and handful of trailer operators compete vigorously for business. It has also been shown that competition exists between shipping lines as a result of high growth in demand, coupled with the large investment companies have made in new ships. Studies have also found that the LoLo market is intensely competitive both in terms of price and service and that the RoRo market is also competitive. There is correlation between the size of the 'competitive arena' within ports, the extent to which private sector actors are active within the ports and the extent and quality of competition.

[1] *Assessment of Shipping Costs to and from Irish Ports, 2000; Assessment of Irish Commercial Seaport Capacity (Update 2000)*

The High Level Review stated the following in the case of Dublin Port Company:

> *At this stage, Dublin Port in the case of its container operations can be considered as a typical Landlord Port. It has encouraged and facilitated independent third party access to port service providers in Dublin Port for some time. As a result, there are now eight independent stevedores operating in the Port – Lo/Lo operations, for instance, are handled by three stevedores, two of which, MTL and DFT, operate from their own dedicated facilities – cranes and bonded warehousing have been liberalised and over half arrivals and departures are not required to take a pilot.*
>
> *However, as far as Ro/Ro is concerned, the relevant shipping companies carry out their own stevedoring from facilities owned by the Port.*
>
> *Dublin Port has limited itself to the provision of marine-related and maintenance services and all but towage and pilotage is provided by the private sector. The major infrastructure is in public ownership.*

COMPETITION BETWEEN PORTS

It is clear that ports compete against each other for trade as determined by market circumstances. Competitive conditions vary greatly from one port to another depending on the location, capacity and type of traffic. Where access is poor, the level of competition between ports is inevitably reduced. Nevertheless, the Performance Audit of the State Port Companies, which was carried out by independent consultants in 2001, found that healthy competition generally exists between ports.

In considering competition between ports, one must take account of the fact that a port, by virtue of its location and hinterland, can have a natural competitive advantage within the market. For example, Dublin Port accounts for almost 50% of the turnover of the State ports. This is attributable to the fact that between 40% and 50% of the goods coming through Dublin Port are destined for areas falling within the M50 ring. Furthermore, this proportion increases to approximately 75% within an 80 kilometre radius of the city. For this reason, and because of much improved efficiency and reliability, Dublin dominates as a locational monopoly and there is little evidence of significant competitive pressure from other ports.

Ideally, the Department would like to see a situation where the Irish ports industry is fully competitive and non-monopolistic in character. While past studies have tracked the improvements in competitive forces in the seaports sector, the Department intends to continue to monitor these trends by commissioning, as appropriate, further studies in due course.

The Department intends to maintain competition as a foremost policy driver and capacity provision clearly will have significant implications in this regard. Competition will be monitored both within and between ports. Within ports, the Department will aim to ensure that there is an arena large enough for competition to exist among private sector providers and shipping companies. In that regard, the Department will adopt a policy stance of seeking to ensure that ports uphold the principles enshrined in the EU Directive on Liberalisation of Market Access in the Provision of Port Services mentioned earlier.

Between ports, the Department will seek to ensure that sufficient high quality capacity is provided at ports to allow for vibrant competitive conditions. This will inevitably require ongoing capacity surpluses in order to attract new business, together with forward planning in order to ensure that projected deficiencies are dealt with in sufficient time. Ideally, capacity will be provided by ports working with the private sector but, as indicated in the preceding sections on Seaport Capacity and Funding of Infrastructure, there may be a role for the Exchequer in exceptional circumstances.

SUMMARY

- Competitive conditions are present both within and between ports. Dublin does not experience significant competition from outside but does accommodate vibrant competitive conditions within the port.
- The Minister will continue to monitor the health of competitive conditions and will seek to ensure that:
  - ports uphold the principles in the EU Directive on Market Access to Port Services and thereby maximise private sector involvement in port service and capacity provision;
  - capacity constraints do not lead to dominant or monopolistic conditions in services and/or capacity availability.

REGULATION

The High Level Review carried out by a consortium of consultants, led by Raymond Burke Consulting, concluded that demand for a ports regulator is exaggerated and that the costs associated with its establishment would be prohibitive. The review went on to recommend that market dynamics should be encouraged through structural reform rather than through the introduction of a regulator and that a ports ombudsman should be appointed to provide an independent conciliation and appeals service.

Regulatory oversight has been introduced across various sectors of the economy which have been newly opened to competition and have immature markets, usually with a single dominant player. The ports industry in Ireland does not fit these characteristics. Although Dublin Port is a dominant player within the market, as previously highlighted, this is attributable to the fact that most of its business is natural to its hinterland.

The potential need for a regulator has to be looked at in the context of the current turnover of the port companies (€110m approximately in 2003, of which Dublin Port Company accounted for some €55m). The costs associated with a sectoral regulator are typically significant, running to 7 figures per annum. Even if included within the remit of the current Commission for Aviation Regulation, the resources associated with regulation of the ports would have to be ringfenced and would still be significant. The cost of regulation would be passed through to users of the ports and there is no evidence that the return to the industry would justify the costs involved.

As already noted, the largest port, Dublin, is a landlord port where some 4,000 people are employed, with the port company itself employing some 270. Regulation of the port company would be relatively meaningless in the context of the large number of other service providers.

During the consultation phase on the High Level Review, the Department found that the majority of respondents did not see the necessity for appointing a regulator to the ports industry. Having considered all aspects of this issue, including the characteristics of the sector, the cost associated with regulation and taking into account the findings and recommendations of the High Level Review and subsequent consultation process, the Department has concluded that the best option is that of an arbitrator, as opposed to a sectoral regulator. The appointment of a regulator should only be considered where there is clear evidence of market failure and that this is serious and damaging to the industry. Thus far, this has not been proven.

The appropriate mechanisms to be employed for arbitration in each case should be agreed between the port company and the customer. However, as a minimum, in order for the appointment of an arbitrator to be an effective method of resolving disputes, the port company and the complainant should agree in advance to be bound by the outcome of the arbitration process. The parties should agree on selection of an arbitrator and on the timeframe to be allowed for arbitration to take place. Determination as to how the costs of the arbitration process should be borne by the parties would be a matter for the arbitrator. The Department will consider giving statutory backing to an arbitration process for ports in the future, if that proves necessary.

It is envisaged that an arbitrator would be charged with handling disputes involving areas such as port charges, access to infrastructure and facilities and pilotage and pilotage charges. The arbitration facility should be open to all users of the port.

SUMMARY

- The case for a regulator of the ports is not proven.
- While the Minister will keep the matter of appointing a regulator under review, he does not intend to progress it at present.
- Instead the Minister proposes the following:
  - disputes between port stakeholders and the port will be addressed to an arbitrator whose opinion will be binding;
  - parties to disputes will agree the terms of the recourse to and selection of an arbitrator;
  - the facility will be available to all port stakeholders.
- The Minister will consider putting the arbitration facility on a statutory basis, if necessary.

MERGERS

The Harbours (Amendment) Act 2000, amended the Harbours Act 1996 and provided for the amalgamation of existing port companies in the interests of cost effectiveness and efficiency.

Following the enactment of the Harbours (Amendment) Act 2000, Foynes Port Company and Shannon Estuary Ports Company were amalgamated to form the Shannon Foynes Port Company in September 2000. While the process of merging the two port companies was a difficult one, the amalgamation has proved successful. However, the merger was not without significant cost to the Exchequer.

While the High Level Review suggested a number of possible merger groupings, the only merger that has recently been considered is the possible amalgamation of the Port of Waterford Company and New Ross Port Company.

During the consultation process, a number of concerns were raised regarding the impact that proposed mergers could have on competition. In particular, concerns were expressed regarding a potential merger of Dublin Port Company and Dun Laoghaire Harbour Company.

The Department takes the view that the facility provided for in the Harbours (Amendment) Act 2000, for the transfer of the functions of one port company to another or for the amalgamation of the functions of two or more port companies, is an important element in the range of policy options for the future. This stance is consistent with the clear policy indicated earlier in this statement, i.e. that ports must look to their own futures, take all necessary steps to remain competitive and not rely on any Exchequer support in the future. Ports must, therefore, consider all options, including possible mergers, partnerships and groupings which have the potential to reduce costs, create synergies and opportunities for more dynamic development, market, product delivery and critical mass. The Department will expect and be supportive of any initiatives in this regard.

SUMMARY

- The facility to transfer or amalgamate the functions of port companies is an important policy option, subject to competition considerations.
- The Minister sees groupings and partnerships of ports as options to reduce costs, create synergies and improve marketing and critical mass.
- The Minister would, in the first instance, encourage ports to fully explore such options as a means of improving financial and business performance and providing better services.
- The Minister will expect and be supportive of any considered proposals from ports, whether sharing estuary or hinterlands or in different locations.

PRIVATISATION

The High Level Review looked at privatisation from two aspects (i) introduce private ownership of up to a 50% stake in the State commercial ports and (ii) full privatisation. The first option would involve the State commercial port companies being opened up to the private sector, with a ceiling put on the level of ownership conferred, in order that the State would retain control of the port companies. The second option would give the private sector a controlling interest in the port companies, although the review states that measures could be put in place to ensure that the State retains a strategic interest.

Privatisation in the context of ports is complex and sometimes simplistically presented. The fact is that the potential and strategic significance of the ports varies between one port and another. The private sector is already substantially involved in the provision of port services at the commercial State ports, although they do not have a financial stake in the port company itself. It is unlikely that current returns on investment and profitability in port companies themselves would attract significant private sector interest.

The arguments in favour of private sector shareholding in port companies are based primarily on improving productivity and efficiency and thereby enhancing economic performance. The introduction of private sector experience and management skills is argued to be the catalyst needed to allow former State bodies to complete their migration to fully-fledged commercial operations.

Against these arguments must be balanced the fact that the ports are an important element of the transport network of this island State. The strategic advantages of a number of the State harbours, deriving from deep sheltered water and land access to hinterland, are not easily replicated. There would be a concern that, in private ownership, the public interest may not be adequately served. Accordingly, private sector ownership in the port companies would require the extension of an appropriate legislative and regulatory framework.

The shareholder may in the future consider the issue of capital tied up in smaller ports and the question of redistribution of funds. This would apply in particular with regard to smaller ports with capacity constraints, an inability to cater for unitised traffic and with limited capacity bulk/tanker operations.

Any future decisions might reflect on the amount of capital/equity tied up in this investment that might otherwise be freed up by a sale to the private sector, allowing a reinvestment of part or all of the proceeds back into the development of strategic assets, while at the same time reducing the shareholder's exposure to these investments.

It could be argued that private investment might also create another strand of competition for the sector as whole, allowing private investors to purchase ports that are unlikely to secure any future funding given their constraints and strategic importance.

The Department's view on privatisation, per se, of port companies is simply to retain an open mind and not to actively pursue it. Policy will focus instead on maximising private sector involvement and funding in port operations and capacity investments, and on creating access and competitive conditions to make this worthwhile. As mentioned earlier, the Department will strongly encourage the private sector to contribute to the provision of competitive services and capacities into the future. The ports' shareholders, for their part, will ensure that all proposals in this regard are positively assessed. That being said, the maintenance of open, competitive conditions and the avoidance of monopolies – public or private – will remain a guiding public policy principle.

SUMMARY

- Privatisation in the context of ports is complex and sometimes simplistically presented, given the high level of penetration of ports by the private sector. The fact is that the potential and strategic significance of the ports varies between one port and another.
- The Minister intends to:
  – maintain an open mind on privatisation of port ownership, per se;
  – in the meantime, maximise private sector involvement (including funding) in the ports.
- The Minister regards as a guiding principle, however, the maintenance of open and competitive conditions in ports and the avoidance of monopolies, public or private.

CONSULTATION WITH PORT USERS

The commitment in Sustaining Progress provides that

> *"to facilitate action on the high level review and to give a comprehensive and structured mechanism to facilitate feedback on service provision, efficiency and cost effectiveness from port users, customers and stakeholders, a National Port Users Forum will be introduced in 2003. The goal of the Forum will be the achievement and maintenance of a quality service by Irish ports by enlisting the full support and commitment of all the parties involved".*

Having taken into account the views of all interested parties, it is the view of the Department that the establishment of a National Port Users Forum is not the best way forward for structured dialogue between the port companies and port users. On the one hand, it is not the appropriate forum for dealing with local issues and customer concerns while, on the other hand, it is not the most effective method for the Department and the Minister to elicit views on policy formulation.

It is the Department's view that direct consultation with stakeholders, as was the approach adopted in respect of preparing this policy document, is the best means of eliciting views on policy formulation. Views filtered through a third party can often lack clarity, while direct consultation generally leads to a better understanding of the issues involved.

The High Level Review of the State's Commercial Ports recommends that each port should formally establish a port users forum as a means of accommodating the views of port users. The Department concurs with this view. The Department feels that the port companies themselves are best placed to respond to and deal with disputes concerning their users. In this regard, the Minister will be asking each port company to set up a local ports users forum to facilitate the articulation and resolution of customers' concerns and queries in relation to infrastructural developments and operational issues.

The Department considers that this initiative, together with the planned arbitration facility to examine areas of dispute, constitute an adequate means of ensuring structures for productive engagement between port users and the ports.

Where major changes of policy and/or strategy are considered, the Department undertakes to ensure that these be designed and progressed, as heretofore, on the basis of consultation with all parties. Finally, it is open to all parties to submit to the Minister and Department reasoned proposals for change at any time.

SUMMARY

- It is firm policy that structured engagement with port sector stakeholders should occur at all levels, whether at the strategic or policy level with the Minister and Department or at the operational level with port operators.
- The Minister and Department are open at all times to consult with port stakeholders at a group (or representative) level or individually on all matters of concern. They are committed to ensuring that change at the policy/strategy level is designed, implemented and progressed in full consultation with relevant stakeholders.
- It is not considered that the case is sufficiently made for a national users forum whereas merit is seen in local users fora.
- The Minister sees the combination of an "open door" approach on his and the Department's behalf, local port users fora and the proposed arbitration facility as constituting an adequate suite of measures for productive engagement.

PORT COMPANY BOARDS

CORPORATE GOVERNANCE

The Code of Practice for the Governance of State Bodies, which replaced the Guidelines for State Bodies promulgated in 1992, was endorsed by Government on 2 October 2001 and subsequently promulgated to State bodies. The Code of Practice reflects the Government's requirements of the port companies and their Boards in the pursuit of their commercial mandate. Adherence to the Code is mandatory and the requirements contained within it are supplementary to existing statutory requirements.

CURRENT STRUCTURE

There are currently 12 members on each of the Boards of the 10 commercial State port companies. The Boards comprise:

- 3 directors appointed on the nomination of the local authority. Local authorities are prescribed by regulation and appointments are made in accordance with such regulations;
- 1 or 2 employee directors, depending on the number of employees of the company, either elected by the employees or appointed by the Minister to represent the interests of the employees on the Board;
- The chief executive officer, is an ex-officio member of the Board;
- The balance of Board members are appointed at the discretion of the Minister.

Twelve directors is considered excessive, even for the largest of the port companies, and represents more than the number of employees in the case of some of the smaller port companies. There is clearly a case for smaller, more focussed Boards for the commercial State port companies.

LOCAL AUTHORITY MEMBERSHIP ON PORT COMPANY BOARDS

One of the key recommendations of the High Level Review was that the practice of appointing port users, local councillors and those without relevant experience should cease immediately. The rationale for the continued representation of local authorities on the Boards of the port companies is not as apparent as it might have been in the past. Prior to corporatisation in 1997, the sector was characterised by unclear mandates, public utility ownership and local monopolies.

With the evolution of the commercial State port companies, the industry has opened up and there has been a major organisational and cultural change within the ports. While there have been substantial and valuable inputs, the rationale for local authority representation on the Boards of State bodies, operating under a statutory commercial remit, is no longer compelling. Indeed, there is a view that the presence of local authority representatives can create the potential for conflict of interest, limitation of perspective (e.g. in relation to mergers) and a certain lack of clarity at Board level through references to local issues the relevance of which to the port's mandate may be questionable. This has the potential to constrain the Boards from pursuing tough commercial decisions and strategies.

In order to ensure smaller, more focused Boards for the future, it is intended to reduce from 3 to 1 the number of local authority directors on the Boards of port companies. Where there is currently more than one local authority represented on the Board of a port company, an appropriate system of rotation will apply. Amendment to the current legislation will be required to give effect to this proposal.

APPOINTMENT OF PORT USERS TO THE BOARDS

The appointment of port users to the Boards of the commercial State port companies can lead to conflicts of interest and, in line with the recommendation of the High Level Review, it is intended that this process will cease with regard to all future appointments.

EMPLOYEE DIRECTORS ON THE BOARDS

With the introduction of smaller Boards, the need for two employee representatives to be elected to the Boards of those port companies with more than 50 employees also has to be reviewed. In tandem with smaller, more focussed Boards being put in place, 1 employee representative on each Board is more appropriate. Accordingly, it is intended to amend the legislation to provide for 1 employee director on each Board, regardless of the number of employees of the company.

EXECUTIVE DIRECTORS

The Harbours Act 1996 provides that the chief executive of a port company shall be ex officio a director of the company. It has been suggested that, in the case of the larger companies, consideration should be given to the appointment of at least one other executive director. The Minister will consider this issue in the context of the implementation of the other changes in Board membership set out.

BOARD SKILLS/PERFORMANCE

An appropriate balance of skills, competencies and experience is required at Board level in order to ensure that the Board is capable of providing the leadership and strategic direction required to control and guide the port efficiently and effectively.

It is important that Board members cultivate a commercial ethos and display a genuine dedication to the welfare of the port and all its stakeholders.

This underlines the need to appoint highly professional and competent chairpersons and directors to the Boards of State bodies. The majority of interested parties involved in the consultation process were in favour of smaller Boards with skilled directors who have the relevant business experience required to drive the companies forward.

Directors need to be fully informed as to their legal responsibilities and to be familiar with the requirements of company law and other statutory provisions of relevance in exercise of their functions.

The Code of Practice for the Governance of State Bodies, approved by the Government and published by the Department of Finance, reflects the shareholder's expectation of the Board in pursuit of its commercial mandate.

FUTURE MECHANISM FOR APPOINTING BOARDS

In order to have available a comprehensive list of suitably qualified individuals, willing to sit on the Boards of the commercial State port companies, it is intended to advertise at least every two years inviting suitably qualified persons to put forward their names for consideration by the Minister in respect of vacancies arising during the coming year. The aim will be to maintain an up to date list of candidates with the skills mix to provide a balance of business, professional, organisational and planning/environmental expertise to the Board. The Minister will reserve the flexibility, however, to appoint directors from outside the list where he considers it appropriate in the interests of the company.

SUMMARY

- Given their role and status as commercial entities, it is essential that Boards are competent, smaller and more focused and clearly aligned, on an individual member level, solely on the achievement of the commercial objectives and well being of the port company.
- Members should have the appropriate mix of competencies and skills to contribute to advancing the business and corporate governance of the company.
- Local authority representation should be reduced to 1, staff representation should be confined to 1 regardless of numbers of staff and user representation should cease.
- A panel of appropriately skilled potential Board member candidates should be established and drawn upon to fill Board positions as appropriate.

ROSSLARE HARBOUR

It is widely acknowledged that Rosslare is a significant commercial port and one of the few ports with sufficient throughput of goods and passengers to be viewed as a serious competitor in the industry. In 2003, Rosslare handled almost 2 million tonnes of goods, making it the fifth busiest port in terms of tonnage handled. It is also the second busiest passenger port, after Dublin, with 1.1 million passengers passing through the port in 2003.

Rosslare Harbour is part of the property owned by the Fishguard and Rosslare Railways and Harbours Company, an anglo-irish company dating back to the 19th century. With the effluxion of time, responsibility for the management and operation of the harbour, has come to reside with Iarnród Éireann.

The Department of Transport is currently engaged in a process aimed at modernising the legislation governing the status of the port which is under the aegis of Iarnród Éireann. This will require legislation both here and in the UK. It is envisaged that the necessary legislation in both jurisdictions will be in place by Summer 2006.

Once the ownership position has been modernised, further consideration will be given by both this Department and the Department of Transport to the most appropriate ownership/management structure for the port.

The High Level Review suggests a South East grouping of ports, involving Rosslare, Waterford and New Ross. This is not under active consideration at the present time, however, and would only be considered, in any event, in the light of a significantly improved financial position at both the Port of Waterford Company and New Ross Port Company. Furthermore, as indicated in the section on Mergers, the Department will only consider proposals which demonstrate the potential to reduce costs, create synergies and opportunities for more dynamic development, marketing, product delivery and critical mass.

SUMMARY

- Rosslare Harbour is a major component of Ireland's essential ports infrastructure.
- It is noted that the Department of Transport is currently looking at modernising the legislation governing the status of the port which comes under the aegis of Iarnród Éireann.
- The Department will continue to liaise with the Department of Transport regarding the future of Rosslare Harbour.

REGIONAL HARBOURS

The need to address the future of the State's regional harbours has, in the past, been widely acknowledged in a range of official publications and, in particular, is a key objective of the Department's Strategy Statement 2003 – 2005.

In 1998, KPMG Consulting were contracted to undertake a review of the State's 16 (at the time) regional ports and harbours. The intention of the review was to chart the way forward for these facilities by setting out a long-term, coherent and sustainable development plan for their future. The regional harbours which were the subject of the review operated under the provisions of the Harbours Act 1946.They ranged from those with busy commercial traffic to others catering for a mix of uses, including fishing and marine leisure, as well as some which had experienced a severe decline in terms of commercial and seaborne trade.

The review was published in 1999 and among its key findings were:

- The ports are operating under unsuitable and outdated legislation;
- Antiquated board structures are in place that foster potential conflicts of interest;
- The ports generally have a weak commercial and marketing focus and have little, if any, technical or engineering skills;
- The ports play an important local role and their economic value can often be very indirect in terms of commercial activity and spend.

The review essentially recommended that the ports either be corporatised as commercial State port companies, merged with an existing port company or transferred to the relevant local authorities. Local authorities already run a number of small harbours and so would have a certain expertise that would be valuable to regional harbours. They would also recognise opportunities to develop local amenity value and bring improved corporate governance structures.

The fact that many regional harbour authorities have neither the resources nor the capability to comply with aspects of the Code of Practice for the Governance of State bodies, further supports the case that they should not continue to exist in their present status and should be transferred to local control.

To date, two of the regional ports, Dundalk and Wicklow, have been corporatised as commercial State port companies. Responsibility for both Ballyshannon and Buncrana has been transferred to Donegal County Council.

For reasons of good governance, and to enable these harbours to realise their amenity potential, it is considered essential that the remaining harbour authorities be transferred to local control in cases where there is little or no commercial traffic. Where it is not possible to reach agreement on transfer to local authorities, the option of sale of the harbours will be considered. In cases where significant commercial traffic exists, consideration will be given to bringing the relevant harbours under the control of a port company established under the Harbours Acts 1996 and 2000.

In accordance with the Harbours Act 1996, the consent of the Minister for the Environment, Heritage and Local Government is required to give effect to the transfer of the regional harbours to the relevant local authorities. The Department is currently working with the Department of the Environment, Heritage and Local Government with a view to giving effect to the transfers. The next step is to complete a study involving both Departments in order to identify the assets and liabilities of each harbour, and any necessary capital works from a safety perspective, so as to achieve an acceptable standard for each of the regional harbours and to determine the costs involved in reaching this standard. In order to progress this, the Department's Engineering Division has been tasked with overseeing an urgent study to determine the most pressing works to be commenced at the regional harbours from a safety perspective.

SUMMARY

- The continued operation of many of the regional harbours under the outdated provisions of the Harbours Act 1946 is unsustainable on the grounds of good governance.
- The Minister reiterates the view that most of these harbours would best achieve their potential through their transfer to local authority ownership or, where this is not possible, through sale to the private sector.
- In harbours where significant commercial traffic exists consideration will be given to bringing them under the control of a port company.
- The Department is currently progressing a due diligence study of assets and liabilities (including contingent liabilities) in the context of pursuing the transfer of the regional harbours to local control.

APPENDICES

APPENDIX I

PORT COMPANIES

Port of Cork Company

Drogheda Port Company

Dublin Port Company

Dundalk Port Company

Dun Laoghaire Harbour Company

Galway Harbour Company

New Ross Port Company

Shannon Foynes Port Company

Port of Waterford Company

Wicklow Port Company

APPENDIX II

HARBOUR AUTHORITIES

Annagassan Harbour Commissioners

Arklow Harbour Commissioners

Baltimore & Skibbereen Harbour Commissioners

Bantry Bay Harbour Commissioners

Dingle Harbour Commissioners

Kilrush Urban District Co.

Kinsale Harbour Commissioners

River Moy Commissioners

Sligo Harbour Commissioners

Tralee and Fenit Harbour Commissioners

Westport Port and Harbour Commissioners

Wexford Harbour Commissioners

Youghal Urban District Co.

APPENDIX III

CAPACITY SHORTFALLS IDENTIFIED FOR 2014 AS PER 2004 UPDATED ASSESSMENT OF COMMERCIAL SEAPORT CAPACITY

PORTS	BULK SOLIDS	BULK LIQUID	GENERAL	UNIT LOAD
Cork	810	4,530		450
Drogheda	130	80		720
Dublin		1,380		2,930
Dundalk				
Dun Laoghaire				
Galway				
Greenore			80	
New Ross		280		
Rosslare				
Shannon Foynes				
Waterford	360		110	340
Wicklow				
Total for above 12 ports	**1,300**	**6,270**	**190**	**4,440**

Figures shown represent metric tonnes ('000 tonnes)

APPENDIX IV

SUMMARY OF FINDINGS OF THE 2004 ASSESSMENT OF COMMERCIAL SEAPORT CAPACITY

	YEAR 2003	YEAR 2007	YEAR 2014
Projection of Traffic	46,892	53,875	63,227
Capacity	96,725	97,989	98,024
Surpluses		13,570	11,600
Shortfalls		4,520	12,200
Capacity Utilisation	48%	55%	65%[1]

Figures shown represent metric tonnes ('000 tonnes)

[1] *When considering these figures, due account must be taken of the fact that much of the unutilised capacity is located at sites in respect of which it is unlikely that demand will ever materialise and that many of the key ports are, in fact, already at or close to reaching maximum capacity utilisation, in respect of certain types of trade.*