



**EUROPEAN SEA PORTS ORGANISATION** ASBL/VZW  
**ORGANISATION DES PORTS MARITIMES EUROPEENS** ASBL/VZW

# **SEAPORT POLICY**

**A practical guide for EU policy makers**

Presented by the

EUROPEAN SEA PORTS ORGANISATION

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Treurenberg 6 - B-1000 Brussel/Bruxelles  
Tel. : 32-2-736 34 63 - Fax: 32-2-736 63 25  
E-mail : [mail@espo.be](mailto:mail@espo.be) - Web site : <http://www.espo.be>

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## 1. EXECUTIVE SUMMARY - WHAT SEAPORTS NEED FROM THE EU

Many attempts were made in the past to develop an EU policy for seaports, which – for various reasons - either fell into oblivion or failed.

European seaports would like to see the development of a coherent EU policy framework which focuses on three key areas:

1. Facilitating development of adequate port capacity, maritime access and hinterland connections to allow ports to fulfil their role as gateways for Europe's external and internal trade – through:
  - clarifying State aid rules for public funding of port infrastructure, services of general interest in ports, as well as of maritime access and hinterland infrastructure, including nodal points;
  - focusing support under TEN-T to missing or inadequate infrastructure links, especially those connecting seaports to their fore- and hinterlands;
  - guaranteeing full commercial freedom to the managing body of the port, allowing new and existing investors normal returns on investment and fully respecting property rights;
  - stimulating an open debate about the impact of nature conservation rules on vital port and port-related development projects.
2. Fostering the provision of competitive and efficient services in ports and within the transport chain – through:
  - guaranteeing that port charges are a matter of commercial and financial autonomy of each individual port;
  - studying existing good practice in relation to the provision of services in ports before proceeding to any common framework;
  - ensuring that services in the transport chain are equally competitive, market-oriented, efficient, safe, secure and environmentally-sustainable as those provided in seaports;
  - ensuring that controls and inspections in ports are necessary, coordinated and efficient and that government responsibilities are not transferred to ports.
3. Stimulation of the wider community responsibilities of ports – through:
  - supporting the individual efforts of ports to achieve high environmental, safety and security standards through self-regulation;
  - stimulating co-operation and exchange of best practice between ports by supporting pragmatic industry-driven projects;
  - maintaining a proper balance between incentives to competing alternate transport modes;
  - focusing short sea policy on efficient customs and administrative procedures.

In addition, EU policy makers – and in particular the European Commission – should fully play their role as guardians of the Treaty. The Commission should also shift its current emphasis on producing new legislation to a better coordination and application of existing legislation that affects seaports, introducing modifications where necessary. Non-legislative policy tools, such as interpretative communications and codes of practice should be more commonly used.

ESPO represents the port authorities of the more than 1000 seaports of the European Union. Its members are more than willing to engage in a constructive debate with EU policy makers on the above proposal and provide all their practical expertise available.

## 2. EU SEAPORT POLICY – THE CHALLENGES

The European Union simply cannot function without its seaports. Almost all of the Community's external trade and almost half of its internal trade enters or leaves through the more than 1000 seaports that exist in the 20 maritime Member States of the European Union. On average 3,5 billion tonnes of cargo per year. Not to forget the annual 350 million passenger journeys – the equivalent of 70% of the European population.

Without seaports the European Union would not exist as an economic world power. Without seaports there would be no European internal market.

Seaports represent complex interfaces of different transport modes and involve various actors, both private and public. As a result, they create unique challenges in establishing a policy framework.

There were many attempts: innumerable reports and studies, several policy frameworks, a Green Paper, a Communication and even a Directive proposal. They all fell into oblivion or failed. Why ?

1. Policy makers ignored or underestimated the fact that European seaports are naturally diverse. There is practically no other industry in Europe which has such distinct individual characteristics. Historical factors explain this. Seaports have developed over long periods of time.
2. The advent of containerisation in the 1960s and major economic growth has resulted in the port sector going through a remarkable and increasingly rapid process of market-driven change. Policy makers in general responded too late to these changes by wanting to regulate, co-ordinate and intervene, rather than anticipate or foster market developments.
3. These attempts to regulate were furthermore often fragmented lacking an overall vision of what ports needed. Different policy initiatives contradicted each other. Conflicts caused by the divergence between EU transport and environment policy measures are a good example.
4. The EU has so far tended to approach seaports in a rather negative way. Either they were full of “bottlenecks” or “obstacles” – without ever providing as much as concrete evidence – or they were nuisances, polluters and seen as causing all kinds of harm to society.
5. In general, policy makers did not take into account the way European seaports function and their markets. Perhaps this was also due to a lack of input from the industry itself which took its own complexity too much for granted.

Is developing a successful European seaport policy which would actually be applauded by European ports then an ungrateful and even impossible task? No it is not. All it requires is to avoid the above pitfalls and to pursue a coherent approach in line with the basic needs of seaports outlined on the following pages.

### **3. SEAPORTS NEED ADEQUATE CAPACITY AND LINKS**

#### **FACTS AND CHALLENGES:**

- Traffic in European seaports is growing at about 4 % per year. For container traffic, annual increases between 7 and 15 % are estimated for the forthcoming years.
- If no investments are made to create the capacity to accommodate this rise in traffic, European trade will come to a standstill. Cargo has to move. Proper infrastructure links are necessary both in terms of maritime access and hinterland connections to swiftly dispatch goods and avoid congestion. The interaction between seaports, inland ports and inland terminals requires particular attention.
- Restrained government budgets mean private capital is vital for the financing of port infrastructure and superstructure and requires long-term commitments from private investors in ports.
- Many European seaports have to deal with international groups who possess strong bargaining power and are often organised in strategic alliances, allowing them to be less loyal to one particular port.
- Potential port expansion areas are as scarce as nature conservation areas. EU nature conservation legislation, and in particular its local or national interpretation, puts an increased strain on vital port development plans.

#### **POLICY IMPLICATIONS:**

- The application of EU Treaty rules on State aid to public funding of port and port-related investments or to compensation of services of general interest provided in seaports should be unambiguously clarified. Greater legal certainty is necessary for investors and to promote fair competition between ports.
- Policy applicable to public funding in seaports should equally apply to hinterland infrastructure to ensure that seaports compete on fair terms with other modes.
- Financial support under the Trans-European Transport Network framework should focus on missing or inadequate infrastructure links, especially those connecting seaports to their fore- and hinterlands. In principle all EU ports should be eligible for such support, provided projects meet the relevant criteria of the TEN-T guidelines and do not lead to market distortion.
- The managing body of the port should have full commercial freedom to negotiate with potential investors. Both existing and new investors should be able to benefit from a normal return on their investment. Property rights in ports should be fully respected.
- The impact of pre-existing legal regimes applicable to port extension areas, maritime access routes and hinterland infrastructure on the designation of nature protection areas should be identified before designation and port owners, authorities and users should be consulted.
- The impact of the TEN-T statutes and pre-existing zoning schemes on the assessment of the “overriding public interest” in the context of Natura 2000 legislation should be defined more clearly.
- The impact of new environmental legislation on port and marine activity, including dredging, should be properly evaluated in advance.

#### **4. SEAPORTS NEED COMPETITIVE SERVICES - NOT JUST IN PORTS**

##### **FACTS AND CHALLENGES:**

- Strong competition has made the European port sector a highly performing industry, ranking among the most efficient worldwide. Charges for different services within European ports are in line with, if not significantly lower than, those applied in other continents.
- Despite the diversity in the way European ports are managed and operated, potential service providers generally have no major problems in finding access to relevant markets within European ports. The high influx of new operators during the last few years is the living example of this.
- Logistics chains are the relevant focus in European port competition. The traditional division of tasks within the logistics chain has become blurred by vertical integration strategies. European ports are therefore increasingly competing within supply chains.
- European seaports are natural habitats for logistics services. The pre-eminent role of seaports in international distribution offers opportunities for the development of value-added logistics.
- As intermodal connecting points, the efficiency of seaports relies very much on the efficiency of services provided both in the hinterland and the maritime foreland.
- This efficiency is furthermore influenced by the fact that seaports are favoured locations for the provision of frontier controls including safety of ships, security, customs, public health and environmental quality; many of these controls are unique to the maritime sector.

##### **POLICY IMPLICATIONS:**

- Port charges should be a matter of commercial and financial autonomy for each port. There is no added value whatsoever in a common European charging framework, even if introduced for environmental, safety or security purposes.
- A common European framework on provision of services in ports could be useful to clarify the application of EU Treaty rules and to provide transparency and legal certainty to the managing body of the port, potential and existing service providers as well as port users. It should draw on existing good practice in ports without being over-prescriptive or bureaucratic. It should not require harmonisation of different port organisation systems in Europe.
- The managing body of the port should have full commercial freedom to negotiate with potential service providers in its port, based on transparent, objective and non-discriminatory criteria. In particular, the basic freedoms guaranteed by the EU Treaty should be observed.
- A climate must be ensured which continues to attract logistic service providers to seaports.
- Services provided throughout the entire transport chain should be equally competitive, market-oriented, efficient, safe, secure and environmentally-sustainable as those provided in seaports.
- The EU should furthermore continue to ensure that its policies regarding maritime safety, security, customs, public health and environmental quality do not adversely affect the overall functioning of ports by imposing unnecessary or uncoordinated controls and inspections, or by transferring government responsibilities to ports.

## **5. SEAPORTS NEED TO FUNCTION IN A WIDER COMMUNITY**

### **FACTS AND CHALLENGES:**

- The added value of ports for the economy and society is often taken for granted. Community groups tend to focus on environmental, safety and security considerations. High performance in those areas does not only play a crucial role for obtaining community support, but also in attracting trade partners and potential investors.
- The managing body of the port plays a crucial role in stimulating corporate social responsibility of ports by ensuring that high environmental, safety and security standards are achieved and seen as good commercial practice.
- Whilst supporting the idea of generating a modal shift to more environmentally-sustainable transport modes, seaports need all modes to function optimally.
- Given developments in distribution structures, road haulage is likely to remain a dominant mode. Rail and barge have increasing importance on high-volume trunk lines.
- During the last five years, short sea shipping has showed a growth trend comparable to that of road transport. Significant investments have been made to make short sea a competitive, market-oriented, efficient, safe, secure and environmentally-sustainable transport mode.

### **POLICY IMPLICATIONS**

- The EU should support the individual efforts of ports to be as efficient, secure, safe and environmentally sustainable by encouraging self-regulation as widely as possible.
- The EU can furthermore stimulate co-operation and exchange of best practice between ports by supporting pragmatic industry-driven projects such as the ESPO Environmental Code of Practice and ECOPORTS. Similar initiatives are possible in the field of safety and security management.
- Modal shift policies should keep a proper balance between incentives to competing alternative modes whether rail, inland waterway or short sea shipping.
- Given the successful evolution of short sea shipping, EU promotion policy for short sea should focus on those areas where genuine progress can still be made, for instance in the field of customs and administrative procedures which strongly influence port efficiency.