



The European Commission's Ports policy

**EFIP Briefing in view of the
meeting with the Cabinet Kallas**

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Summary

- General Background
- The Commission Discussion Paper
- Position EFIP?

General Background

Short History

So far, the Commission « Ports policy » only addressed sea ports:

- Port package I (2001)
- Port Package II (2004)
- Ports policy communication (2007)

Now, the Commission is preparing a ports policy « **review** »

In its preparatory work (different studies) the Commission was again almost exclusively addressing sea ports

First stakeholder survey

Summer 2012

Addressing both sea and inland ports

Survey was more a « business survey »:
essentially gathering factual information on the
functioning of ports.

Ports conference September 2012

Presentation of the results of the survey

Participation of EFIP

Conclusion Matthias Ruete (DG MOVE)

3 possible domains of intervention:

1. improve the performance of ports, achieve a bigger transparency, separation of accounts/functions
2. Port specific services. Distinction between public and commercial functions
3. Port Labour issues

Second stakeholder survey

Launched end October – deadline 16 December

Is more a policy survey:

- 1) EU objectives,
- 2) what policy measures,
- 3) impact of policy measures

First survey was addressing ports, this survey was addressing the EU organisations and the ports

Main arguments in EFIP's answer to the second survey (1)

- Inland ports want an environment that enables them to respond to the market, attract businesses to the waterfront
- Improving the efficiency and performance of port services is important but is not the first challenge
- In general, inland ports are already subject to different rules and legislation governing public entities
- New measures should be proportionate
- As regards labour law, people working in inland ports are subject to general labour law – compliance with general labour law should be guaranteed
- Guidance on training and qualification of port workers can be useful in areas where ports are being newly developed
- Importance of a certain service in a port is often more relevant than importance/size of port (=> pleads in favour of threshold for defining scope)

Main arguments in EFIP's answer to the second survey (2)

- Restricting the number of port service providers should be allowed (not imposed) for reasons of safety, security, environment, market and space constraints.
- A PA should maintain the possibility to operate port services himself
- Difficult to frame all inland ports in one regime: ex. not possible to give a definition of « public service obligations » that fits for all inland ports
- The port authority itself is the best placed to define what the minimum quality requirements should be for the port services in its port. The legislator should not impose what is « good quality ».
- Nothing against a users committee in a port. But should this be imposed, if users can set up such a committee whenever they want.
- There is a lack of comparable data on inland ports. Good to improve the measurement of inland ports, prove their economic importance.

Commission Discussion Paper

Main challenges

- Steady port traffic growths towards 2020
- Sea trade growth is a necessity for Europe's economic recovery + SSS as alternative to road transport
- further developing of « gateway function of ports » implies better hinterland connections, better use of existing capacity and new port infrastructure
- **transnational dimension: unfair practices in one port can harm neighbouring competing ports, better performance in one port will help intra EU trade and have positive effects on network.**
- Completion of internal market for ports will help in unleashing potential: this implies the abolition of: 1) unjustified market barriers, 2) unnecessary administrative burden, 3) unclear rules on provision of services

Main Challenges (2)

- **Need to optimise public investments in ports and encourage private investments since governments budgets are under pressure**
- **Transparency in the use of public funds: guarantee level playing field between ports: separate accounts needed between statutory functions and commercial functions of PA**
- **Ports infrastructure charging policy: is not always cost related, price signals are rare (environmental, external costs)**
- **Lack of coordination of public investments in port capacities (duplication of facilities,...)**
- **Port as (new) job creator**

(only the challenges in bold could eventually be applicable to inland ports, the others are seaport-specific)

Possible measure 1: fair market access

- Principle of freedom to provide services
- Limiting the number of suppliers in a port is possible

When?

- scarcity of port space
- reasons of public interest (safety, environment, security, nautical accessibility)

Procedure: open, transparent, and non-discriminatory selection procedure

Possible measure 2: avoid abuses by internal operators

- Public authorities (port authorities) may decide to operate certain port activities themselves or may entrust a public undertaking that they control to operate these services
- Direct awarded contracts without open tendering procedure can be possible in some restricted cases

In these two cases: to avoid abuses, some additional guarantees:

- « confinement »: « stay in your port » (reciprocity-principle)
- Definition of the scope, extent and conditions of the (public) service
- Fair pricing
- Procedures for complaints
- Procedures for consultation with users

Possible measure 3: administrative simplification and intra-port coordination

- Setting up of a ports' users committee to be consulted by the port authorities in each TEN-T (core)port

And/or

- An administrative simplification action plan in each TEN-T (core)port

Possible measure 4: Financial Transparency of Public Funding

- Transparency of financial flows

*See: 2006/111/EC: financial transparency of public undertakings
(threshold: annual turnover of more than 40 million EUR)*

=> Proposal to apply directive to all TEN-T ports

- Separating accounts between financial flows :

Commercial function: port as service provider

*Statutory/Regulatory Function: the port authority's
infrastructure management component*

Or even legal /functional separation?

Possible measure 5: port infrastructure charging

- Basis: EU strategy/white paper : long term marginal cost charging in all transport modes
- Ports should be in the position to set themselves the structure and level of port charges
- To be set in relation to the long term marginal costs
 - Possibility to recover investment costs
 - Take into account the ports strategic planning
- Introducing transparency requirements as first step
- Incompatibility of dumping prices with Treaty
- Encourage price signals, environmental incentives (ex. green awards)

Possible measure 6: coordination of port activities

Aim: to avoid duplication of efforts and a better visibility of possible return on investments, some form of coordination between ports can be introduced

Different levels possible: ranging from an exchange of information on planned investments to a more integrated and coherent planning

**=> European body with some role of coordination?
Establishment of strategic integration plans/ TEN-T corridor, development of national strategic port development plans?**

Scope

Maritime ports: all TEN-T ports, for some measures, only all TEN-T **core** (82) ports

Inland ~~X~~ ports: The economic fundamentals, governance models and transport features of inland waterways port differ from those applying to maritime ports.

Some issues could be relevant to inland ports, some not.

DG MOVE considers that an ad-hoc investigation focused on inland ports is required

This investigation will be carried out in the context of the revision of the Naiades programme

Position EFIP

This part has been updated on the basis of the results of the discussion between members and the discussion with the cabinet

Questions to answer

1. Do we agree with the analysis and conclusion of the Commission as regards inland ports?
2. Which arguments do we put forward to support the Commission on this point?
3. What do we think about the individual potential measures if they were to be applied to inland ports?
4. What is the way forward? How can the Commission further help inland ports?

Question 1

**Do we agree with the (provisional)
exclusion of inland ports?**

YES

Question 2

**What are the arguments
that justify such an exclusion?**

Possible Arguments

General:

- **inland ports do not recognize themselves fully in the analysis made and the reasons put forward for developing this port policy.**
- **So far, inland ports haven't been in the scope of the analysis made in the different preparatory studies. No proper analysis of problems and challenges for inland ports so far.**
- Not real entry points in to the EU, no facilitators of external trade, no « gateway » function
- Sea ports have a quasi monopoly on external trade (80/90%), inland ports in strong competition with other modes
- Not in competition with non EU ports
- Neighbouring ports not main competitor.
- Main « competitors »: road transport (even if inland ports use and need also road transport) and the city (city and port are often competing in the field of urban land planning and use)
- Scale difference between inland ports and seaports
- Inland ports are in full development: difficult to frame them now in one regime or strict rules
- Inland ports are multimodal connecting points: not only IWT transshipment but also rail transshipment is important
- **Inland ports are already subject to the treaty (transport title), to legislation governing public entities, no added value of more specific legislation**

3 main challenges of inland ports

Infrastructure of inland waterways and inland ports

Role and place of inland ports in urban areas

Remain well performing ports => need to measure (better market observation to prove economic performance)

=> Ports policy must help inland ports to respond to the economic reality, must not convert port authorities into administrative bodies, which check rules and punish offenders.

Question 3

**What do we think about the proposed measures for sea ports?
Quid if they would be applied to inland ports?**

MEASURE

Position EFIP

Fair market access

- Impact for inland ports is limited since inland ports are not using technical nautical services.
- Not clear what happens with cargo- handling (relation with concession directive?)
- To what extent is a port authority obliged to offer/set up a certain service in his port?
- Thresholds should be introduced to limit eventual procedures to services of a certain importance (de minimis approach)

Avoid abuses by internal public operator

Important that the port authority can operate services himself

Administrative simplification and intra port coordination

- A « user committee » as such should not be imposed. Lot of inland ports already have such committees of users in different models and constitutions.
- There are different « users » of the ports, representing diverging interests: businesses in the port, barge owners, rail companies, shippers, chambers of commerce,... To regroup them in one committee does not make sense.
- Inland ports do not see the need/ added for an administrative simplification plan for the port

MEASURE

Position EFIP

Financial transparency of public funding

- Transparency on the public funds received and the use of those seems a fair point.
- Formally separate the commercial and statutory functions of an inland ports seems not feasible.
- Impossible to define and delimit « statutory functions of an inland ports ».
- a legal separation statutory and commercial function is not possible

Port infrastructure charging

- Inland ports agree that port charges should be set in a non-discriminatory way
- However, introducing the principle of cost-relatedness does not seem to be the right approach: port charging is part of a commercial (economic), environmental and political strategy
- Ports are also having a societal role and are meeting public goals: the costs of fulfilling this role is born by the users, is part of the port charges.
- Impossible to earmark all the costs
- port charges are only a small part of the revenues of a port

Coordination between ports

- Coordination between inland ports at different levels and in different ways is current practice among inland ports and even between inland ports and sea ports.
- Inland ports believe however that cooperation and coordination between inland ports can not be imposed.
- Inland ports do not oppose programmes that would encourage coordination between ports, as long as the commission's role is that of a « facilitator » and as long as the decision to cooperate remains with the ports themselves

Question 3

What is the way forward?

**How can the Commission further
help inland ports?**

*(question put forward by the Cabinet
at the meeting)*

Possible fields of intervention/ policy initiative

- Need for comparable data on inland ports
- Study (with support by the EC) on the added value (economic importance) of European inland ports
- Long term stable infrastructure policy on inland waterway infrastructure development and maintenance
- Help in gain the support of the Member States for a supportive inland waterway policy
- Vision of an inland waterway transport policy that is taking into account the railways : multimodal integration of inland waterway transport
- Develop an EU urban transport policy and policy on freight logistics in which inland ports can play a role
- Exchange of best practices and guidelines on training and qualification of port workers in newly developed ports (areas)