



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.10.2007
COM(2007) 616 final

COMMUNICATION FROM THE COMMISSION

Communication on a European Ports Policy

{SEC(2007)1339}
{SEC(2007)1340}

I. INTRODUCTION

More than 1 200 merchant ports dot some 100 000 km of European coasts; several hundred others punctuate the 36 000 km of our inland waterways. They are key points of modal transfer and are of vital interest to handle 90% of Europe's international trade. Moreover and supporting our general transport policy¹, they handle 40% of the tonne-kilometres carried out in intra-Community trade. They are a key to cohesion in Europe, through the development of passenger and ferry services. The development of the cruise industry has transformed some of them into focal centres of tourism for cities and whole regions. They are essential for the development of short sea shipping and, in many cases, of inland waterways' traffic. These two modes are economic, and can replace less sustainable modes over long distances. Ports are a direct and in-direct source of more than half a million jobs, and ensure dynamism and development of whole regions including most peripheral ones, in line with the Lisbon strategy.

The present Communication aims at a performing EU port system able to cope with the future challenges of EU transport needs; it sets an action plan for the European Commission. It follows up from an extensive consultation with the stakeholders in 2006-2007, which included six workshops, two large conferences and meetings with experts from the Member States.

This Communication on ports also follows up and implements the recently adopted Communication on an Integrated Maritime Policy² which addresses all sea-related policies and activities in a joined-up way as a means to promote economic growth and jobs in a sustainable manner.

1.1. The Economic Context

In 2005, more than 3 billion tonnes transited through European ports. The traffic of bulk products represented half of it. It increases at the same speed as our dependence on mineral energy products and particularly on liquefied natural gas. A thriving Ro-Ro traffic represented 14% of the total. General cargo accounted for less than 10%. The container traffic in strong growth represented approximately one third.

More significant, the total number of container movements (empty and full) in 2005 was 250 million in the world, with more than a quarter in Europe. Experts predict for 2010 an increase of 50%, half of which will be direct transport of full boxes, about 20% of empty boxes reflecting asymmetrical flows, and the remainder with one or more intermediate harbour transfers. Ships servicing direct lines are increasingly larger, and unload freight in transit ports with deep water depth; from there, one or more feeding steps with smaller ships ensure delivery through smaller ports closer to the final recipient. This development has to be encouraged as it allows a greater use of the maritime mode, a better diversification of unloading points, and a shortening of congested land transport.

It is however fundamental to note that 30 % of the movements in Europe in 2005 took place in the ports of Rotterdam, Antwerp and Hamburg. On the other hand, the quantities handled by the 9 larger ports of the Mediterranean only make up 20% of the total. This distribution of

¹ COM(2006) 314.

² COM(2007) 575.

trade and hinterland traffic is expected to be confirmed by the figures of 2006 and 2007. Prevailing costs and charges of different modes of transport together with the available offer of suitable transport infrastructure to a large extent explain the current pattern of trade and transport flows in Europe.

1.2. Challenges for the European Ports System

Ports face the following challenges:

- A demand for international transport amplified by its low cost and growing quicker than economic growth; it is interesting to note that investors from all venues and origin are indeed now attracted by the appealing future of ports.
- A major technological change, marked by the development of container transport, more effective, faster, safer, and cleaner operation of ports, but for which a major adaptation effort in land acquisition and management, in technology and social issues is required from our ports and the cities hosting them. At the same time, the necessary use of IT, navigation, and telecommunication technologies requires adaptation and training so as to continue offering prospects for productivity and new jobs.
- The commitment to reduce greenhouse gases and the current problems with air quality calls for a decrease in harmful emissions and road congestion effects of each tonne-kilometre transported, and for modal diversification towards rail, inland navigation and maritime transport. It will lead to a better geographical distribution of land transport and to a better use of existing port capacities.
- The necessity to develop a recurrent dialogue on performance and development of ports between port stakeholders and within the city, the region, and beyond where necessary. Dialogue is of primary importance as it can ensure social acceptance, efficiency, improve the image of ports, achieve a better spatial organisation for urban functions, recreation or tourism; an approach based on dialogue with stakeholders can help to achieve sustainable activity within ports as well as better employment opportunities and conditions..
- Last but not least the need to reconcile ports' development and management with transparency, competition, and in general the Community set of rules.

II. ISSUES AND ANSWERS

1. PORT PERFORMANCE AND HINTERLAND CONNECTIONS

Overall, Europe's biggest ports can be considered efficient in economic terms; their maritime set up, openness, organisation of calls, and berthing of ships (the main source of revenue) are usually commendable; in many ports, however, there are still bottlenecks, such as mismatches in storage and un/loading capacity, unsatisfactory terminal layout and output per unit area of installed capacity, inefficient routings and access from sea or land, long waiting time, and insufficient security for trucks, trains and barges, unsatisfactory labour conditions and output, and last but not least, excessive administrative requirements which prove to be costly in terms of time and money.

Having a good situation and site on the sea or water side, and delivering reliable services at reasonable prices is therefore not enough. On the land side, reliable and sustainable hinterland connections are a key to the capacity rating and future of a port. Significant improvements in this field are necessary and possible.

In summary, the first options to cope with increased demand for port capacity should be:

- To increase port efficiency and productivity rates, in terms of output or movements per ha of existing terminals space and throughout the access routes. New port equipment and timed appointments at terminals for trucks, trains, and barges, together with an integrated management of the transport chain at least through the port from sea to inland carriers, would certainly solve a number of problems. Operations and cargo management systems and software will certainly contribute to smoothing the interfaces between modes and operators, and contribute to increasing output.
- To explore alternative transport routes as a means to achieve a more intensive use of all existing ports - some of which are operating under capacity levels - and to have them nearer to users. Market proves that daily and quick intra-EU connections, by either short sea shipping or feeder services are a sustainable option for many ports.

Those perspectives to port expansion should be properly assessed before new infrastructural developments are envisaged. Thus, developments need to be discussed with all stakeholders, and then planned and executed on the basis of a large consensus. Reaching a consensus on them would indeed be easier, if ports' Master Plans were regularly updated after broad consultation and at all levels. The construction of major new port facilities or the substantial expansion of existing ones should be primarily based on a sound economic assessment of the effect that the envisaged development will have on transport flows. This would also lead to a more rational distribution of traffic across Europe. Even though such a better distribution cannot obviously be "enforced" by regulatory means, it would certainly suit today's concerns on sustainability of transport.

The Commission intends at this stage to leave this matter to regional and national authorities and to the market.

***For its part,** the Commission intends to evaluate ports hinterland connections status and needs and their impact on a balanced network of traffic flows on the occasion of the mid-term review of the trans-European transport network in 2010³*

2. EXPANDING CAPACITY WHILE RESPECTING THE ENVIRONMENT

2.1. Development of new, or improvement of existing facilities

Once the above assessments have been made, the conclusion might be that an increase in capacity is needed through improvement, extension or construction to allow increase of maritime and fluvial transport. This need arises when:

³ Article 19 of Regulation (EC) 680/2007.

- Ports require both adequate facilities and appropriate connections with the hinterland. For historical reasons, ports and port equipment were simply not conceived nor built to accommodate modern ships of all cargo types, and indeed containers; let alone the volume of traffic.
- A new sustainable modal shift away from the road transport mode towards inland waterways or maritime navigation, such as a Motorway of the Seas, has been positively identified.
- Adequate port infrastructure needs to ensure a better energy security of supply and enhance competitiveness of those industries⁴. They may also constitute alternatives to traditional supply infrastructure.
- Because it is necessary to redevelop the port area of the city, and/or shift the port industry and related hinterland traffic, for environmental and security reasons, away from the city-centre. The city can then plan for a better use of areas particularly fit for its citizens, passenger transport, cruise tourism, cultural or indeed residential or other economic activities.

In such cases public authorities will then need to consider which options for further development would best serve the public interest. Community rules on the environmental protection then apply, such as the Habitats⁵, Birds⁶, Water Framework⁷ and Waste⁸ Directives.

Ports are both strategic gateways for supplies of goods and energy (e.g. LNG⁹), and key economic clusters. They need investments from public and private sectors that need a fair degree of legal certainty.

Legal uncertainty was mainly claimed by stakeholders in relation to the Birds and Habitats Directives. The Commission is aware of the difficulties that may arise on the occasion of the implementation of these directives with regard to port infrastructures.

The Commission has already published several guidance documents to support Member States in implementing the environment directives, and citizens and stakeholder in better understanding them. The Commission will issue guidelines on the application of the Community environment legislation to port development.¹⁰

2.2. Ensuring adequate waste facilities

Directive 2000/59/EC on port reception facilities aims at reducing discharges of ship-generated waste and cargo residues into the sea. The effective implementation of the Directive by Member States still needs to be pursued.

⁴ COM(2007)1.

⁵ Directive 92/43/EEC.

⁶ Directive 79/409/EEC.

⁷ Directive 2000/60/EC.

⁸ Directive 99/31/EC.

⁹ COM(2006) 846 and SEC(2007) 1283.

¹⁰ See COM(2007) 575 and SEC(2007) 1278.

Based on the evaluation of the implementation reports of the Member States, of assessments carried out since the entry into force of the Directive and of the results of the European Maritime Safety Agency (EMSA) monitoring visits, the Commission will consult the interested actors on means to improve the existing mechanism of the Directive and its harmonised implementation and come forward with an appropriate proposal.

2.3. Proper management of water bodies and sediments

Together with other stakeholders, ports located along rivers or estuaries should be actively involved in the consultations on river basin management issues, inter alia, in the context of drafting the river basin management plans required by the Water Framework Directive (2000/60/EC). The same applies to maritime ports along the coastline in respect of the quality of coastal waters, sediment drift along the coast and the use of waterfronts, e.g. in the context of integrated coastal zone management. Similarly, the necessity to prevent soil pollution must be addressed at all times and in particular when improvements or new facilities are made or built upstream, and in ports.

2.4. Improve air emissions

Air quality is a concern in most of the larger ports. Significant reduction of air pollution from ships and hinterland transport from/to ports is essential for a sustainable growth. The Council has agreed on a reduction of at least 20% of greenhouse gases by 2020. This will also require a reduction in CO₂ emissions from shipping. Measures to achieve this should take account of developments at an international level. The IMO has made a commitment to setting more stringent emission limits in 2008. The Commission will support actively international efforts to diminish greenhouse gas emissions from ships, and, in the absence of progress in such efforts, consider possible options for EU measures in this regard.

The solution of the supply of electricity by ports for ships being at dock is under consideration by the Commission¹¹. This solution should be considered first for ships on regular voyages such as ferries or short sea shipping or Motorways of the Sea vessels. The Commission intends to make proposals to reduce the levels of air pollution from ships in ports, namely by removing tax disadvantages for shore side electricity.

The Commission is committed to reducing air pollution and greenhouse gas emissions from shipping and will contribute to establish measures aimed at reducing these emissions in ports, including through appropriate incentives.

3. MODERNISATION

New systems conceived for maritime safety or security purposes such as SafeSeaNet, AIS (automatic identification), and LRIT (Long-range Identification and Tracking), coupled with modern telecommunications are or will soon be mandatory; they will substantially improve the ship-shore relationship. This is not indifferent for ports and public administrations therein. A ship's voyage and approach can now be tracked. Ports and the maritime cluster at large must benefit from this progress¹².

¹¹ See COM(2007) 575.

¹² See <http://www.marnis.org>

3.1. Simplification of procedures for Short Sea Shipping

EU legislation applies customs supervision to maritime transport between Member States as the ports of departure and arrival located in the EU are part of the external border where third country goods and Community-cleared goods come together. Therefore the supervision also exists when the vessel carries Community-cleared goods although simplified customs procedures are available for those ships that only carry these goods.

In those cases it is important that the administrative procedures are as simple and streamlined as possible. This will not only reduce delays, uncertainty of schedules, costs, and improve confidence in short sea shipping, but also create new opportunities for ports and give raise to the creation of Motorways of the Sea. The Commission has proposed the creation of a paperless environment for customs and trade, including a single window for the submission of data. Modern tracking facilities will be key to making this possible.¹³

Shipping remains at a disadvantage compared to other means of transport. A vessel travelling between two EU ports is subject to more complex and time-consuming procedures than a truck would be, because a real internal market for maritime transport in Europe does not yet exist. In order to unlock the full potential of Europe's shipping industry this disadvantage of maritime transport compared with the other modes must be eliminated through the simplification of administrative and customs formalities for intra-EU maritime services.

As announced in its Integrated Maritime Policy for the Union¹⁴ and the Mid-term Review of the White Paper on Transport Policy¹⁵, the Commission will present a legislative proposal on the creation of a European Maritime Transport Space without Barriers in 2008.

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3.2. Development of an e-maritime approach

Beyond short sea shipping, the administrative treatment of a ship needs improvement. Single windows must be developed from where clearance of documents and controls can be coordinated by the relevant administrations. The improvement of the ship-shore communications, contacts with the previous port of call and port-logistics software involving both public and private stakeholders will allow for the development of port integrated systems. They will improve clearance of goods, better plan the transfer to inland transport, reduce pressure on port space, and be a key tool for seafarers, ship, port services and planning.

The Commission intends to publish in 2009 a policy document on the deployment of this "e-maritime". This approach is directly related to "e-Freight" and the ongoing "e-Customs"

¹³ COM(2005) 608.

¹⁴ COM(2007) 575.

¹⁵ COM(2006) 314.

initiatives and will fully benefit from the modern Information and Communications Technologies (ICT).

3.3. Improving Performance

New technological innovation related to port equipment, such as automated stacking cranes, rail-mounted gantry cranes, automated container terminals, and twin and tandem lifting will also have an important role to play in making Europe's ports more efficient.

The EU Research Framework Programmes, in particular FP7, support relevant research and innovation on port infrastructure and operations.

Cooperation between ports and especially between those close to each other is most welcome, as it can lead, inter alia, to specialisation in cargo or ship types, and organisation and pooling of hinterland transport facilities. It would certainly lead in many cases to an improvement in output.

Lastly, the efficiency of transport chains and their hubs such as ports is crucial for logistics performance. Indicators already exist for combined transport on rail, air transport and short sea shipping. However, no common system of such indicators so far exists across modes.

The Commission intends to develop with stakeholders, by the end of 2009 a set of generic European indicators allowing further specification at local level.

4. A LEVEL PLAYING FIELD – CLARITY FOR INVESTORS, OPERATORS AND USERS

4.1. The role of port authorities

The set-up of port management varies considerably across the Community. In some Member States ports are managed by private entities which own port land (or avail themselves of rights similar to those of an owner). Those ports are entirely private businesses. In the other cases – a large majority in continental Europe – ports are managed by public entities or undertakings. Those entities, which can be designated as 'port authorities' (irrespective of the names they have under national law), more and more benefit from a high degree of autonomy in taking operational decisions as well as of financial autonomy from public authorities. Moreover, while some port authorities provide cargo-handling and/or technical-nautical services, others focus on management and development; the Commission does not intend to intervene in order to harmonise this heterogeneous scenario. In fact, it is at the national/local level that the best setting for port management can be shaped. However, the Commission recognizes that the important tasks of port authorities can be better fulfilled if they enjoy a sufficient degree of autonomy. As for financial autonomy, in particular, the Commission recalls that it is a pre-requisite for allowing an efficient allocation of investments and, in the end, for allowing ports to develop.

4.2. Public Financing – Transparency

Although it cannot be said that there is competition between all ports in all cases, competition between some of them, and competition inside ports can be significant and calls for a level-playing field. In this respect, one of the issues to be addressed is public financing to ports. The

Commission will establish a general legal framework as port stakeholders are requesting. Clarity in financing will also be an incentive for port investment.

The Commission will adopt guidelines on State aid to ports in 2008.

Moreover, information relating to funds that public authorities make available to any port should be transparent. Under Directive 2006/111, this obligation already exists but only for ports whose annual earnings are above EUR 40 million per year. Since a large number of ports – some are very important for their Member State and indeed for European transport as a whole – are below this threshold, the latter should no longer apply to the ports sector.

The Commission plans to take measures towards extending the provisions on transparency of Directive 2006/111/EC to all merchant ports, irrespective of their annual turnover. This will allow for a complete picture of financial flows from Member States' public authorities to ports.

4.3. Port Concessions

In most cases access to port land is a precondition for providing cargo-handling services. Such services may be based on different legal arrangements. They may be directly provided by port authorities or by third parties, such as concessionaires. There is currently no Community secondary legislation on service concessions in the field of ports or other terminal facilities.¹⁶ It has been emphasized by the Commission in its communication on concessions of 2000¹⁷ that "this does not mean that concessions are not subject to the rules and principles of the Treaty".

In particular, the relevant case-law of the Court of Justice has pointed out that, when Member States grant service concessions, which are not covered by the Directive on public procurement, public authorities are bound by an obligation of transparency implying that their initiative is adequately advertised, that the procedure is fair and non discriminatory and that it can be reviewed. Such obligation of transparency consists in ensuring, for the benefit of any potential tenderer, a degree of advertising sufficient to enable the concession to be opened up to competition and the impartiality of the selection procedure to be reviewed¹⁸.

The Commission considers that the above obligation applies when Member States' authorities decide to entrust a third party with a portion of port land for the provision of cargo-handling services. The respect of transparency obligation does not hinder port authorities from setting selection criteria which reflect the commercial strategy and development policy of a given port that will be the basis for granting the concession. Moreover, the Commission has outlined in an interpretative Communication that the obligation of transparency directly derived from the EC Treaty applies only to contract awards having a sufficient connection with the functioning of the Internal Market, and that the Court of Justice has considered that in individual cases, because of special circumstances, such as a very modest economic interest at

¹⁶ Article 18 of Directive 2004/17/EC and Article 17 of Directive 2004/18/EC.

¹⁷ Commission interpretative communication on concessions under Community law (2000/C 121/02).

¹⁸ Judgment of the Court of 7 December 2000, Telaustria, Case C-324/98, Point 60 and 62, and Judgment of the Court of 13 October 2005, Parking Brixen, Case C-458/03, Point 49.

stake, a contract award would be of no interest to economic operators located in other Member states¹⁹.

Concerning the length of the concessions, as has been pointed out in the mentioned communication on concessions, their duration must be set so that it does not limit open competition beyond what is required to ensure that the investment is paid off and there is a reasonable return on invested capital, whilst maintaining a risk inherent in exploitation by the concessionaire²⁰. It should also be noted that, when a concession expires, renewal is considered equivalent to granting a new concession, and is therefore covered by the principles set out above²¹.

The Commission considers that provisions that can be introduced in concessions agreements aiming to ensure that the terms of the concession are respected and protect the legitimate interests of ports and local communities, notably with regard to overall quality and performance of port services, are acceptable, provided that they do not infringe the Treaty rules or Community legislation.

A clarification is needed on the rights of workers in case of transfer of activity further to a selection procedure

If an undertaking takes over certain activities previously carried out by another undertaking, subsequent to the award of a concession or public contract, Directive 2001/23/EC²² may apply²³. Indeed, for a "transfer" within the meaning of the Directive to occur, two conditions must be met: *a)* the employer must have changed; and *b)* the transferred entity must retain its identity. Retention of identity is marked both by the continuation by the new employer of the same activities and by the continuity of its workforce, management and organizational patterns. These are, however, merely single factors in an overall assessment which must be made and can not therefore be considered in isolation²⁴. If those requirements are fulfilled on the occasion of a tender procedure or privatisation of port services, Directive 2001/23/EC shall apply.

4.4. Technical-nautical services

Technical-nautical services are pilotage, towage and mooring. Often those services are also linked to port safety. This link is much stronger in the case of pilotage and towage than with regard to mooring. Such activities may either be provided by the public administration or constitute services of general economic interest.

Against this background, it should be recalled that under Article 86(2) of the Treaty, undertakings entrusted with tasks of general economic interest are subject to the Treaty rules on competition and on internal market as long as the application of such rules does not

¹⁹ Commission interpretative communication on the Community law applicable to contract awards not or not fully subject to the provisions of the Public Procurement Directives, C 179, 01/08/2006, pp. 2-7.

²⁰ See communication on concessions (2000/C 121/02), Paragraph 3.1.3.

²¹ See 2000/C 121/02, Paragraph 2.4.

²² Council Directive 2001/23/EC.

²³ Point 3.2.1.2 of COM(2001) 566.

²⁴ It should also be recalled that in a case of change of contractor the Court of Justice has held that the fact that the tangible assets taken over by the new contractor did not belong to its predecessor but were provided by the contracting authority cannot preclude the existence of a transfer of an undertaking within the meaning of the Directive (Judgment of the Court. *Abler*, Case C-340/01 ECR I-14023).

prevent them from effectively fulfilling their tasks. In this context, according to the principle of proportionality, the means used to accomplish the general interest mission can limit the freedoms of the internal market only to the extent necessary to guarantee the fulfilment of the mission²⁵.

In the current state of Community law and jurisprudence, the Treaty principle of freedom of establishment applies to technical-nautical services. Legal monopolies for technical-nautical services may encroach upon this freedom and, in such cases, they can only be justified to the extent that they are necessary and proportionate for the provision of the service in question. In those cases a transparent procedure has to be carried out for the selection of the operator. This requirement is fulfilled if adequate European wide publicity is given to the selection procedure and the impartiality of the selection procedure can be reviewed. Exclusive rights should not be granted for excessive periods, regard taken of the need to ensure a reasonable return on invested capital, whilst maintaining a risk inherent in the provision of the service. Regarding pilotage, in particular, the Commission considers that granting exemptions from mandatory pilotage for frequent users, when safety is ensured should be granted as it would reduce the costs of maritime transport and make it more attractive, in particular short sea shipping. Technological innovation should be taken into consideration when assessing this. In this respect, remote pilotage may become a valuable option in the future, to be developed in the framework of e-maritime.

A further point should be made for the provision of mooring services. The Court of Justice has held that restrictions to the free provision of this service may be justified²⁶. It should be noticed, however, that, even in this case, restrictions to the provision of the service are not necessarily always indispensable. Where the free provision of mooring is not capable of undermining the pattern of the universal service – this may, for instance, be the case in big ports with several terminals –, free access to this activity should be ensured²⁷.

4.5. Cargo-handling

Cargo-handling has significantly evolved during the last years. It has become a service based on advanced technologies and is now much less labour-intensive. Its role has also evolved, along with the role of ports, gateways in the logistic chain and not only the starting and ending points of a maritime trade. Cargo-handling is performed according to different settings across the Community and even within one Member State. Port workers are often directly employed by terminal operators, while in some ports they are contracted via "pools", entities in charge of recruiting and training port workers.

Like cargo-handling in general, pooling arrangements can be very different across the Member States. Moreover, they can be based on national or local legislation or entirely governed by local practices. The Treaty rules on freedom of establishment and freedom to provide services can fully apply to the activities carried out by the pools

Pools often provide sound training to workers and are an efficient tool for employers. However, such arrangements should not be used to prevent suitably qualified individuals or undertakings from providing cargo-handling services, or to impose, on employers, workforce

²⁵ Communication from the Commission — Services of general interest in Europe, C 017, 19/01/2001 P. 4. Point 23.

²⁶ Judgment of the Court - Corsica Ferries, Case C-266/96.

²⁷ See Judgment of Court Paul Corbeau, Case C-320/91. Points 18 and 19.

that they do not need, since this could under certain circumstances fall foul of the Treaty rules on the Internal Market, and in particular of Article 43 on freedom of establishment and Article 49 on freedom to provide services.

4.6. Port dues

When using ports, shipowners have to pay several fees, some for the use of the port as such, others for services provided by terminal operators, pilots, tug-operators, moorers, etc. Single billing windows would simplify users' operations. Only the fees charged for the use of the general port infrastructure will be briefly addressed below ("port dues").

Port dues and their possible ancillary fees are made publicly available in most cases today, in particular on the internet. This is in the interest of ports themselves. The problem is that, although available, those fees are sometimes unclear to customers and very difficult to calculate in practice. The Commission insists on the need for more clarity on the different items that compose port dues, as well as on more transparency in their relation with relevant costs. Obsolete criteria for tarification discriminating ships used for short sea shipping should be overcome. This is also true for all services provided to them.

The Commission will help disseminating best practices on transparency in port charges.

Port charging can also be a policy instrument for encouraging the use of less polluting ships as already provided in Directive 2000/59/EC, the Commission is in favour of such a sustainable approach.

4.7. Competition with third countries

Competition with Member States' ports by ports in third countries is a concern expressed by some European ports. This is especially the case of some EU ports close to non-EU ones, as well as in relation to hubs. Lower levels of environmental constraints and social rules, fiscal dumping, public financing for hinterland connections, discriminatory charging practices for the use of hinterland connections, can distort fair competition and put the continuity of deep-sea activities at risk in different parts of the EU. The permanent transport dialogue between the EU and Russia is an example of a forum that allows to address such issues. Bilateral agreements on maritime trade as they have been concluded with China or others is another example on how those matters can be actively dealt with. Cooperation with those neighbouring countries should be encouraged and guided by the need to establish harmonious conditions of competition.

The Commission will make an inventory of the problems encountered with a view to addressing them in Community external relations when needed.

5. ESTABLISHING A STRUCTURED DIALOGUE BETWEEN PORTS AND CITIES

The relationship between cities and their ports remains one of interdependency and should be ruled by long-term strategic vision and planning. It is therefore important to both the port and to the city to strengthen their association. Promoting the image of European ports and providing greater public access to them are subjects to be mainly left to the ports themselves, regions and Member States. However, the Commission will examine how to cooperate with and enhance co-operation between those authorities and stakeholders in order to improve the

image of ports and their integration with "their" cities. This can be done at the level of city planning, for example in terms of collective transport offer – but also by organizing port festivities, open days, or similar activities. We must try to reconcile port activity with culture, sea-related tourism and city-development at large. There is also need to preserve Europe's maritime identity, a field in which ports can have a considerable role to play since they have served for centuries as nodal points not only for transportation but also as meeting points of different civilizations. This process should also help better integrating ports into cities and city life.

The Commission has proposed in its communication on the integrated maritime policy the enactment of a European maritime day which will launch a week of events aimed at raising the visibility and enhancing the image of the maritime sector. It wishes to further propose a European ports open day during that week which would give the occasion for the general public to assess, and understand better port community work.

It will examine possible sources of finance for supporting the improvement of the integration of ports with cities within the existing envelopes.

Two specific matters relating to the relationship between ports and cities are especially relevant from a Community perspective: environment and security.

In fact, one of the reasons why ports are often criticized by the local community is their impact on congestion and the environment. It has already been indicated above that the possible increase of congestion in port-neighbouring areas should be properly assessed when planning port developments and that efforts should be made by ports and the maritime industry in order to reduce pollution generated by ships in ports.

As for security, protection against terrorism and crime has made port areas much less accessible than a few years ago, so reducing the possibilities for the people to be in close contact with everyday's port business. .

In the context of ongoing work on maritime and port security, the Commission considers assessing the impact of security measures and provide guidance on how to reconcile the need for sound security measures with a fair degree of openness and accessibility to port areas. The review of legislation on maritime and port security will provide an opportunity to assess port access requirements and to examine the development of a European model for multi purpose access cards

6. WORK IN PORTS

6.1. Dialogue

Different arrangements for stevedoring exist in European ports. The Commission considers that a dialogue between stakeholders can contribute significantly to a better understanding between the parties concerned and a successful management of change. In this context, dialogue between the social partners can play a particularly powerful role towards more and better jobs in the ports sector. The Commission welcomes all initiatives aiming at undertaking or promoting a dialogue between stakeholders at different levels, including the initiatives already taken by some ports at local level providing models for "best practices". The recent agreements concluded between all stakeholders in the ports of Dunkirk and Valletta are a

demonstration of this. Furthermore, the Commission will encourage a structured social dialogue at European level.

The Commission will encourage the establishment of a European sectoral social dialogue committee in ports within the meaning of Commission Decision 98/500/EC²⁸.

If such a committee is established, the Commission will promote an active contribution of the social partners to management of change, modernisation and more and better jobs.

6.2. Training

There are currently no specific Community rules on training for port workers. The Commission recognizes that training of port workers has become of primary importance for the safe and efficient operation of ports. Port equipments have become technologically advanced and often complex tools. Work in port has consequently evolved and, as the consultation has shown, a set of common requirements for training of port workers should be established at Community level. This will also enhance the mobility of European port workers by means of the mutual recognition of their qualifications.

At a Community level Directive 89/391/EEC²⁹ (the "Framework" Directive) lays down rules on safety and health related training of workers which fully apply to work in ports. In this respect, Directive 89/391/EEC sets the responsibility of the employer to ensure that each worker receives adequate training on safety and health matters.

The Commission will propose a mutually recognizable framework on training of port workers in different fields of port activities.

6.3. Health and Safety at Work

At the European Union level, the general rules for the protection of health and safety of workers at work are laid down in the above-mentioned "Framework" Directive, which has been supplemented by 19 individual Directives covering specific sectors and risks. Most of these directives are relevant for work in ports. Full respect and enforcement of these rules is crucial for improving working conditions.

Furthermore, in February 2007 the Commission adopted a communication³⁰ *inter alia* encouraging a risk prevention culture at work which was supported by Council resolution³¹. As any other work environment, ports are covered by this communication.

It should be noticed that a significant number of occupational accidents including fatal ones³² still occur in ports.

The Commission will closely monitor the implementation to ports of Community rules on safety and health of workers at work.

²⁸ Commission Decision 98/500/EC

²⁹ Council Directive 89/391/EEC, Article 12.

³⁰ COM(2007) 62.

³¹ Council resolution 2007/C 145/01.

³² Three fatal accidents during the six month consultation process.

The Commission will also closely follow the proper collection of statistics relating to accidents according to the ESAW³³ and EODS³⁴ methodologies established by the Commission (EUROSTAT)³⁵.

III. CONCLUSION

As part of European maritime transport this communication provides a framework and a number of related actions to be carried out, including an extended dialogue and interpretations clarifying the relevant Community rules. It will help concentrate the efforts so that Europe's ports can face the challenges of tomorrow, attract new investment and fully contribute to co-modal development. The Commission calls upon all public and private stakeholders to support this approach and looks forward to a continuation of dialogue to ensure the most harmonious development of EU ports.

³³ ESAW means "European Statistics on Accidents at Work".

³⁴ EODS means "European Occupational Diseases Statistics".

³⁵ Cf. COM(2007) 46.