

Opinion of the European Economic and Social Committee on the 'Communication from the Commission — Communication on a European Ports Policy'

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On 18 October 2007 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

Communication from the Commission — Communication on a European Ports Policy.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 May 2008. The rapporteur was Mr Simons.

At its 446th plenary session, held on 9-10 July 2008 (meeting of 9 July), the European Economic and Social Committee adopted the following opinion by 122 votes with 5 abstentions.

1. Conclusions

1.1 The EESC welcomes the European Commission's new ports policy communication which mainly proposes measures of a 'soft law' nature. The EESC furthermore supports the general focus on the establishment of a stable investment climate, the sustainable development of ports, a good social climate in ports and the consistent application of Treaty rules.

1.2 The European port scene is becoming more diverse in terms of the number of ports involved and the scope of port functions and services. The EESC recommends that EU ports policy should support this market-driven process by ensuring that all European ports are able to use their full potential in a sustainable manner.

1.3 The EESC welcomes the Commission's initiative to develop a rail-freight oriented network and urges Member States to give priority, without going to the detriment of rail passenger transport, to the implementation of major cross-border rail infrastructure projects connecting to ports.

1.4 The EESC welcomes the Commission's initiative to issue guidelines to solve the ambiguities related to the application of Community environment legislation to port development and recommends that these are published before the end of 2008.

1.5 The European Commission should step up measures to ensure administrative facilitation in ports. The EESC therefore welcomes the Commission's intention to present a European Maritime Transport Space without Barriers in 2008. The Commission and, in particular, Member States should make further progress with the modernisation of customs and give this higher political priority.

1.6 The EESC agrees with the Commission that a level playing field among ports can be enhanced through the devel-

opment of State aid guidelines and transparency of financial accounts. Equally, the guidance included in the Communication on the use of concessions, technical-nautical services and labour pools is felt to be generally helpful and clear. Finally, the Commission should take further initiatives to ensure fair competition between EU and neighbouring non-EU ports.

1.7 The EESC welcomes the Commission's aim to promote and enhance co-operation between cities and their ports. In particular, it invites the Commission to organise a proper study on the socio-economic impact of ports.

1.8 The EESC welcomes the Commission's decision to encourage European social partners to create a European sectoral social dialogue committee in ports.

2. Introduction

2.1 Throughout the last ten years the EESC actively participated in the debate on a common EU ports policy. Given the key role seaports play for the socio-economic development, welfare and cohesion of the European Union such a common policy has significant added value.

2.2 The EESC adopted opinions on the *Green Paper on Sea Ports and Maritime Infrastructure* COM (1997) 678 ⁽¹⁾ as well as on the two legislative proposals of the European Commission to open up markets for port services in European seaports ⁽²⁾. On 26 April 2007, the EESC furthermore adopted an own-initiative opinion on a common EU ports policy ⁽³⁾. Taking into account the confrontational climate which characterised the debate on the port services' Directive, this opinion focused on those aspects of a European seaport policy on which stakeholders in the port sector could reach consensus.

⁽¹⁾ OJ C 407 of 28.12.1998.

⁽²⁾ Opinions of the EESC on the Proposal for a Directive of the European Parliament and of the Council on market access to port services COM(2001) 35 final OJ C 48 of 21.2.2001, p. 122 and COM(2004) 654 final OJ C 294 of 25.11.2005, p. 25.

⁽³⁾ OJ C 168 of 20.7.2007, p. 57.

3. European Commission communication on a European Ports Policy

3.1 The European Commission published on 18 October 2007 its communication on a European Ports Policy. This communication is the result of a year-long stakeholder consultation process which consisted of two conferences and six thematic workshops. The communication resorts under the Commission's overall maritime policy strategy and is part of its new freight transport agenda.

3.2 The objective of the new European ports policy is to promote a performing EU port system able to cope with the future challenges of EU transport needs. According to the Commission, these challenges include the demand for international transport, technological change, emissions and climate change, dialogue between ports, cities and stakeholders and, finally, reconciliation with transparency, competition and in general the Community set of rules.

3.3 The communication's actual policy proposals generally consist of a mixture of interpretation of Treaty rules and an action plan with further measures, which are mostly of a 'soft law' nature.

3.4 These are:

- port performance and hinterland connections,
- expanding capacity while respecting the environment,
- modernisation,
- a level playing field with clarity for investors, operators and users,
- structured dialogue between ports and cities,
- work in ports.

4. General observations

4.1 The EESC welcomes the Commission's communication as it recognises the strategic importance of seaports for Europe's external and internal trade as well as their contribution to economic development and employment.

4.2 The EESC particularly welcomes the fact that the Commission does not propose interventionist measures but focuses — within the scope of EU Treaty rules — on the establishment of a stable investment climate, the sustainable development of ports, a good social climate in ports.

4.3 The EESC is also pleased to see that the Commission is using 'soft law' as an alternative to legislation on the one hand and a case-by-case approach on the other.

4.4 The EESC nevertheless has a number of specific comments and recommendations on the different chapters of the Commission's communication.

5. Specific observations

5.1 *The economic context and challenges for the European port system*

5.1.1 The EESC takes note of the Commission's conclusion that movement of containerised cargo is currently concentrated

in a handful of north-west European ports. It should however also be recognised that there is a trend towards participation of an increased number of ports in the European container market rather than a channelling of traffic through only a few ports. The strongest growing container ports in 2006 were mostly small and medium-sized ports located in various port ranges in Europe. Port ranges located at substantial distance are thus increasingly competing with each other⁽⁴⁾. EU ports policy can support this process by ensuring that all European ports are able to use their full potential in a sustainable manner.

5.1.2 The EESC highlights in addition to the list of challenges identified by the Commission those of globalisation and consolidation which characterise the European port and shipping sector. This phenomenon is especially visible in the container market but also occurs in other markets such as ro-ro, general cargo and bulk. European seaports deal with international shipping groups and large terminal operator groups have emerged which now provide services in several European ports. The challenge for a port authority is to ensure commitment from these global operators as well as compliance with the development objectives of the port in respect of relevant European policies.

5.2 *Port performance and hinterland connections*

5.2.1 The EESC agrees with the Commission that the first option to cope with increased demand for port and port-related capacity should be an optimisation of the use of existing port facilities and access routes. The EESC further agrees that a full societal cost-benefit analysis should be made before new infrastructural developments are envisaged. These should take into account economic, social and environmental considerations as these form the pillars of the EU Lisbon agenda.

5.2.2 As explained above, market processes are already driving towards a more diverse European port scene. The bottom-up principle should be fostered whereby project proposals are designated by the managing body of a port in conjunction with regional or national authorities where applicable. This does not, of course, alter the fact that the EU shall continue to formulate objectives and to provide guidelines.

⁽⁴⁾ Seen over a long-term period, the average European container market share of ports in the Hamburg — Le Havre range dropped from 61 % in 1975 to 48 % in 2003, whereas the market share of ports in the Mediterranean range doubled from 18 % in 1975 to 36 % in 2003. Furthermore, the port concentration level in Europe for container traffic (measured by the Gini-coefficient) has constantly decreased since 1990 thus pointing at a rise in entry points to the European market. The strongest growing container ports in 2006 (in relative terms) were mostly medium and smaller-sized ports located in different European regions (Amsterdam, Sines, Rauma, Constanța, Kotka, Tallinn, Bremerhaven, Zeebrugge and Gdynia) — Source: Institute of Transport and Maritime Management Antwerp (ITMMA)/University of Antwerp This stands for instance in sharp contrast to the situation in the United States where the port concentration level has increased dramatically over the same period. Source: Notteboom, T. (2007), Market report on the European seaport industry, which uses data provided by Eurostat and individual ports).

5.2.3 The Commission can however use the 2010 mid-term review of the Trans-European Transport Network to help resolving bottlenecks with regard to hinterland connections to ports. This should however be done on the basis of objective criteria.

5.2.4 The EESC furthermore repeats its request to the Commission to step up efforts to solve remaining bottlenecks in the hinterland through its general transport policy instruments, in particular with regard to inland navigation and rail freight. Especially rail remains a serious bottleneck for the optimal performance of ports and their integration in logistics chains. In this respect, the EESC welcomes the Commission's initiative to develop a rail-freight oriented network and urges Member States to give priority, without going to the detriment of rail passenger transport, to the implementation of major cross-border rail infrastructure projects connecting to ports.

5.3 Expanding capacity while respecting the environment

5.3.1 The EESC very much welcomes the Commission's initiative to issue guidelines on the application of Community environment legislation to port development. This will mean an important step forward in solving some of the ambiguities created by EU legislation such as the Birds and Habitats Directives and the Water Framework Directive. Given the urgency of the matter, the EESC recommends that these guidelines are published before the end of 2008.

5.3.2 The EESC further also invites the Commission to consider additional measures to reinforce the legal status of port development projects and simplify existing legislation, as outlined in more detail in the EESC's own-initiative opinion ⁽⁵⁾.

5.3.3 Clearly stating that contaminated sediment has to be subject to appropriate treatment, the EESC further recommends that pending legislative proposals which will affect the management of water bodies and sediments, such as the Waste Directive and the 'Daughter Directive' of the Water Framework Directive ⁽⁶⁾, must recognise that non-contaminated sediment is not to be regarded as waste and does not have to follow the treatment of contaminated sediment because dredging operations of non-contaminated sediment do not introduce nor add any substances of pollution into a water body.

5.3.4 Finally, the EESC agrees with the Commission's proposals regarding the provision of ship's waste reception facilities in ports and the improvement of air emissions. The EESC recommends that economic incentives through harbour dues are best left to the discretion of each individual managing body of the port since such measures would affect the financial structure of ports which differs greatly in Europe.

⁽⁵⁾ See Section 4 of the Opinion OJ C 168, 20.7.2007, p. 57 on a common EU ports policy.

⁽⁶⁾ Proposal for a Directive of the European Parliament and of the Council on waste (COM(2005) 667) and the proposal for a Directive of the European Parliament and of the Council on environmental quality standards in the field of water policy and amending Directive 2000/60/EC (COM(2006) 397).

5.4 Modernisation

5.4.1 The EESC welcomes the intention to present a legislative proposal on the creation of a European Maritime Transport Space without Barriers in 2008 and refers to the specific comments which it has already expressed in several earlier opinions ⁽⁷⁾.

5.4.2 The EESC further repeats its recommendation that the EU should make further progress with the modernisation of customs and ensure that its policies on customs, maritime safety, security, public health and environmental quality are properly coordinated and harmonised and do not unduly transfer government responsibilities to ports.

5.4.3 The EESC supports the development of single windows and the deployment of 'e-maritime', 'e-customs' and 'e-freight' initiatives. At the same time it believes that ITC-based solutions should be cost-effective, also for smaller and medium-sized ports.

5.4.4 Finally, on efficiency improvement, the EESC supports the Commission's proposal to develop a set of generic European indicators by the end of 2009 provided these respect commercially sensitive data. These indicators, based on the ones existing in the fields of air-, coastal-, and combined rail transport, are to be developed accordingly for elements relevant to ports, such as performance of ports installations, collaboration between ports and the pooling of hinterland activities.

5.5 A level playing field — clarity for investors, operators and users

5.5.1 The EESC endorses the Commission's view on the role of port authorities and the diversity of port management systems in Europe. It particularly subscribes to the recognition that the important tasks of port authorities can be better fulfilled if they enjoy a sufficient degree of autonomy and, especially, full financial autonomy.

5.5.2 The EESC equally welcomes the Commission's announcement to adopt guidelines on State aid in 2008. In this respect, the EESC refers to the basic principles on the use of public funding in ports it has elaborated in its own-initiative opinion of 26 April 2007.

5.5.3 The EESC is also pleased to see that the Commission has adopted its recommendation to extend the provisions on transparency of Directive 2006/111/EC to all merchant ports, irrespective of their annual turnover.

⁽⁷⁾ OJ C 168, 20.7.2007, p. 50, Opinion on the Communication from the Commission — Towards a future Maritime Policy for the Union: A European vision for the oceans and seas COM(2006) 275 final. OJ C 168, 20.7.2007, p. 57, Opinion on a common EU ports policy (Own-initiative opinion). OJ C 151, 17.6.2008, p. 20, Opinion on the Motorways of the sea in the logistics chain (exploratory opinion). OJ C 168, 20.7.2007, p. 68, Opinion Communication from the Commission — Mid-Term Review of the Programme for the Promotion of Short Sea Shipping [COM(2003) 155 final] COM(2006) 380 final.

5.5.4 In its own-initiative opinion the EESC recommended guidance on the use of selection procedures, such as tenders or other acceptable instruments, conditions for concessions and land-lease agreements as well as guidance on the legal status of those port services which service as a public service, for example for the overall safety in ports.

5.5.5 The Commission has met this request by providing guidance in its ports policy communication on the use of concessions and technical-nautical services. The EESC finds that the Commission's interpretation of Treaty rules and case-law is generally helpful and clear. The EESC however underlines that technical-nautical services have the common characteristic of being related to safety of navigation which should justify their qualification as services of general economic interest.

5.5.6 An intelligent concession policy should ensure intra-port competition as well as optimal performance and commitment of terminal operators. The EESC recommends that the Commission regularly reviews the guidance it has provided on concessions to ensure that it effectively matches the above objectives and contains sufficient common elements so as to guarantee a level playing field among port authorities. The latter is particularly relevant given the ongoing consolidation process in the cargo handling market as outlined above.

5.5.7 The EESC welcomes the Commission's proposal to help disseminating best practices on transparency in port charges. The EESC firmly believes that port charges should be set at the local level of the port so that they can optimally match the requirements of port users and the overall interest of the port.

5.5.8 Finally, the EESC is pleased to see that the Commission has taken up its recommendation to address cases of unfair competition by neighbouring non-EU ports. Through its accession and external relations policies, the Commission should also step up actions to address politically-inspired distortions such as the Turkish embargo on Cypriot-flag ships and ships emanating from Cypriot ports, the Aegean Sea Turkish-Greek problems as well as the Baltic-Russian border crossing problems.

5.6 *Establishing a structured dialogue between ports and cities*

5.6.1 The EESC welcomes the Commission's aim to promote and enhance co-operation between cities and their ports. Integration of ports into cities and city life combined with a strong awareness, interest and even pride of citizens in port activities are vital for the sustainable development of ports. In this respect, the EESC particularly supports synergies with tourism, recreation, heritage and culture generally.

5.6.2 The EESC also emphasises the lack of reliable data on direct and indirect employment and added value generated by European ports. It has for instance the impression that the employment data used in the Communication largely underestimate the actual situation. The EESC therefore invites the Commission to organise a proper study into this field.

5.6.3 Finally, the EESC supports the Commission's intention to assess the impact of security measures on accessibility of ports and to provide guidance on how both can be reconciled.

5.7 *Work in ports*

5.7.1 The EESC emphasised the need to promote good and safe working conditions and surroundings as well as constructive labour relations in ports. The EESC notes with satisfaction that the Commission devotes considerable attention to this theme in its ports policy communication.

5.7.2 The EESC repeats its view that the efficiency of operations in ports depends both on a reliability and safety component which are, despite technological progress, to a large extent determined by the human factor. This explains the need for a qualified and well-trained workforce in ports, both landside and on board ships. The EESC has recommended that social partners should play an important role in creating and maintaining these conditions and that, at European level, the Commission should support their input by facilitating social dialogue.

5.7.3 The EESC is therefore pleased that the Commission's has decided to encourage European social partners to create a European sectoral social dialogue committee in ports within the meaning of Commission Decision 98/500/EC.

5.7.4 The EESC supports the Commission's intention to set up a mutually recognisable framework on training of port workers but proposes to first compare the different existing systems of professional qualifications for port workers. This could usefully be done in the context of the European social dialogue.

5.7.5 Finally, the EESC agrees with the Commission that the implementation of rules on safety and health of workers in ports, be these Community rules or rules established by the International Labour Organisation, need to be closely monitored and statistics on accidents improved. However, the EESC also urges that initiatives be taken at all levels within the adequate forums to secure a further improvement of safety and health.

Brussels, 9 July 2008.

The President
of the European Economic and Social Committee
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