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# GREEN PAPER ON SEA PORTS AND MARITIME INFRASTRUCTURE

(presented by the Commission)

|   |           |
|---|-----------|
| <b>EXECUTIVE SUMMARY</b>  | <b>2</b>  |
| <b>1. INTRODUCTION</b>  | <b>6</b>  |
| <b>2. EU PORTS AND THE ECONOMY</b>  | <b>7</b>  |
| 2.1 In general  | 7         |
| 2.2 The changing role of ports in an increasingly competitive environment | 8         |
| <b>3. EU PORTS AND THE COMMON TRANSPORT POLICY</b>                        | <b>8</b>  |
| 3.1 General   | 8         |
| 3.2 The role of ports in the Trans-European Transport Network             | 9         |
| 3.3 Connections to neighbouring third countries                           | 9         |
| 3.4 Ports as transfer points in the intermodal transport chain            | 10        |
| 3.5 Ports and the development of short sea shipping in Europe             | 11        |
| safety and the environment  | 12        |
| and development   | 14        |
| <b>4. PORTS AND CHARGING FOR PORTS AND PORT TIME INFRASTRUCTURE</b>       | <b>14</b> |
| 4.1 Diversity of national approaches and current trends                   | 14        |
| 4.2 EU approach to date   | 15        |
| 4.3 Search for new direction  | 17        |
| 4.4 Towards a Community framework on port financing and charging          | 18        |
| 4.5 A framework for port charging   | 18        |
| 4.6 The TEN-T and EU financial support for infrastructure development     | 22        |
| <b>5. PORT SERVICES: ORGANISATION AND MARKET ACCESS</b>                   | <b>23</b> |
| 5.1 General   | 23        |
| 5.2 Services related to the cargo   | 23        |
| 5.3 Services related to the ship  | 24        |
| 5.4 Port services under the rules of the EC Treaty                        | 24        |
| 5.5 Search for a new direction  | 26        |
| <b>ANNEX I</b>  | <b>29</b> |
| <b>ANNEX II</b>   | <b>31</b> |
| ..... III   | 39        |
| III   | 1         |

## EXECUTIVE SUMMARY

1. Sea ports are vital to the European Union both in terms of trade and transport. Europe's competitiveness in the global economy increasingly depends on an efficient and cost effective transport and port system. The Community's port sector handles more than 90% of the Union's trade with third countries and approximately 30% of intra-EU traffic, as well as facilitating the movement of more than 200 million passengers every year. Moreover, ports are also important centres of regional, economic and social development and act as essential interface between seaborne and land-based modes of transport.
2. The completion of the internal market, technology changes in the transport sector and the ongoing development of inland transport networks across Europe have intensified competition significantly among ports. As a result, ports in different Member States are now, more than ever before, competing for trade. In the past ports have tended to remain on the sidelines of the EU's transport policy debate. The time has now come to redress this situation, and to focus on the key issues relating to ports in today's competitive environment.
3. The purpose of this paper is therefore to launch a wide ranging debate on individual port issues and possible future policies which should help to increase port efficiency and improve port and maritime infrastructure by integrating ports into the multimodal trans-European network and which should also meet the Community's responsibilities under the Treaty to ensure free and fair competition in the port sector. The Commission suggests a number of possible measures which can be applied in the context of existing policies, and identifies other policy areas, in particular in the fields of port charging and market access, in which new initiatives should be considered. These suggestions, on which the Commission seeks the views of interested parties, are summarised in the following paragraphs.

### **Ports and specific aspects of the Common Transport Policy**

#### *Ports and the trans-European Transport Network*

4. The Commission considers the full integration of ports into the TEN-T desirable for the establishment of the multimodal network taking into account, in particular, the need to ensure links to the peripheral areas and to encourage short sea shipping. A proposal to adapt the present guidelines for the development of TEN-T accordingly is being presented in parallel to this Green Paper.

#### *Enlarging the Community and connections to neighbouring countries*

5. The future enlargement of the EU emphasises the need for extending the trans-European networks to the neighbouring countries in order to integrate their transport systems more effectively with those of the Union. The port and maritime sector is of considerable importance to the economies of a number of those countries expected to join in the first round of accession and substantial investment will be needed in transport operations and infrastructure (including ports) both prior to and following accession to promote their convergent development with the rest of the Community. The Commission will continue to work with all neighbouring third countries in the relevant fora in order to identify projects of mutual interest and to use available funds in the most efficient manner.

#### *Ports as transfer points in the intermodal transport chain*

6. In order to optimise the role of ports in the door-to-door transport chain proper infrastructure links to the TEN-T are vital. However, equally important are other measures such as standardisation of loading units, integration of telematics etc. The Commission will support actions to improve the port's position as intermodal transfer points including financing of research and demonstration projects in the area of management systems, and measures to foster innovation and support the development of a competitive intermodal transport system.

### *Encouraging the development of Short Sea Shipping*

7. The streamlining of procedures in ports, e.g. by enhancing information and management systems, is a key issue pinpointed by the Commission in its policy to promote the development of short sea shipping. This policy also gives priority to short sea projects in the framework of the trans-European networks and continues to support actions through research and development and the new PACT programme. Furthermore, the Commission recognises that the pricing policy for other modes of transport is an important factor for the development of short sea shipping. The Commission intends to take this issue forward with a new communication on infrastructure charging in a multimodal perspective.

### *The role of ports in maritime safety*

8. A sustainable transport system can only be achieved if the safety legislation in force in the Community is properly respected. Therefore, the Commission will continue its efforts to ensure effective and uniform compliance with international legislation by all ships entering EU ports and the harmonised application within the Community of IMO and ILO provisions related to the ship/port interface, such as cargo-handling, techno-nautical services, and protection of workers involved in cargo operations.

### *Protection of the environment*

9. To ensure environmentally friendly solutions in the port sector and at sea, the Commission finds it is important to enhance the present availability and adequacy of reception facilities in all EU ports. The Commission will also continue its work in fostering new technology in order to make port operations as efficient as possible and ensure a better use of existing facilities as well as the development of integrated coastal management, including strategic environmental assessment.

### *Research and development*

10. The Commission will continue to support maritime and port projects under the present and future R&D programmes. In its proposal for the 5th Framework Programme on RTD the Commission has included two key actions which are relevant to port related research: "Sustainable Mobility and Intermodality" and "Marine Technologies". The future R&D should also provide tools to allow policy makers to assess different policy scenarios, such as the ones needed to follow up this Green Paper.

### **Financing and charging for ports and maritime infrastructure**

11. The ownership, organisation and administration of ports vary between and within Member States, thus leading to great diversity in the port sector. While accepting that it should be left to the Member States to decide upon the ownership and organisation, a key issue from a competition point of view is the financial flows between the public authorities, the port authorities, the port operators and the users of the port facilities and services.
12. Until now the Commission has not considered public funding of port infrastructure which is open to all users as aid. However, as ports are increasingly considered as terminals having mainly commercial activities with greater involvement of the private sector, and competition is strong on a Community-wide basis, a different approach could be desirable for the future. Therefore, the Commission finds that port infrastructure should be priced in such a way that users should bear the real costs of the port services and facilities they consume.
13. If the Union is to develop a more uniform approach to port charges in the Community, a framework should be included in a proposal for a Council directive. The framework could be based on a principle of recovering the cost of new investments, operating and external costs both to ensure that new investments are demand driven and to ensure fair competition between ports in the longer term. Attention should be given to the need for flexibility to accommodate the needs of

less developed regions and to take into account external costs in parallel with other developments in the transport sector.

14. As a first step, and in order to update the information on the financial flows from the public sector to the various types of ports in the Member States, the Commission intends to make an inventory of public finance given to the main ports with international traffic as well as charging practices in these ports. This information will be useful in the further elaboration of the charging framework when for example, evaluating the possible impact of the implementation of the framework on port tariff regimes and determining a suitable transition period.
15. In the State aid field, and taking into account the information that will be obtained from improved transparency of port financing, the Commission will continue to examine public financial support for assets used by undertakings in carrying out commercial activities in ports. The Commission considers financial support that benefits particular operators as distinct from others, as State aid in accordance with the Treaty provisions. Such an approach will contribute to improving the application of a cost recovery principle by ensuring that except for situations covered by the derogations in the Treaty, investments will be financed by port undertakings on a commercial basis and accordingly their cost passed on to users. The need to link rules on State aid to the proposed framework on port charges will be considered in the context of setting up such a framework.
16. The implementation of a Community approach to port charging and financing would furthermore, have to be progressive and dovetailed with the development of a general approach to infrastructure charging and financing for all modes of transport. The Commission intends to prepare a communication on an intermodal approach to this matter in 1998 which will, on the basis of the discussion on this Green Paper, address the existing approach to public investments in infrastructure and suggest concrete steps on the development of an appropriate framework for ports.
17. Maritime infrastructure outside the port area needs particular attention. In the case of coastal aids to navigation a Community initiative should be prepared to establish the principles for charging systems, aimed at the recovery of the development and investment costs of such aids, and a mechanism to equitably share the financial burden with users. For local aids to navigation within the port area and in its immediate approach as well as for dredging of approach channels to ports, the user-pays principle will have to be examined with caution in order to take adequately into account the different geographical situations in which ports find themselves.
18. The future approach for Community support to ports should be in line with the approach taken for port investments in general. Financing under the TEN-T budget line will be concentrated within the port area on feasibility studies, EDI systems and support for combined transport. Priority will also be given to improving hinterland connections, especially rail and inland waterways. Financing from the Cohesion Fund and ERDF will be available, primarily serving such priorities as better integration of ports into the TEN-T, improved connections with the hinterland, and refurbishment inside the port area.

#### **Port services and market access**

19. Port services are to be seen as an integrated part of the maritime transport system as they are indispensable for the proper functioning of this mode of transport and thereby make an essential contribution to the efficient and safe use of port and maritime infrastructure. Current practices have given rise to complaints by users and potential suppliers of such services about alleged breaches of the EC Treaty, which the Commission is currently examining on a case by case basis, as well as about divergent standards on safety and service quality.
20. Complementary to the case by case approach, Community action could be envisaged in the form of developing a regulatory framework aiming at a more systematic liberalisation of the port services market in the main ports with international traffic in order to establish, over a reasonable

period of time, a level playing field between and within Community ports while ensuring compliance with port and maritime safety standards. Such a new framework would in no way prejudice the Commission's appraisal of any complaints made in individual cases on the basis of the competition rules.

21. The objective of the liberalisation measures would be to ensure open access to the market for port services through appropriate mechanisms and requirements on the basis of transparency, non-discrimination and certain principles for charging, while determining an appropriate framework for the implementation of public service obligations, whenever they are deemed necessary, as well as of the safety requirements. As an integral part of these measures, harmonised or, at least, minimum standards for training and qualifications of the personnel and for the equipment involved should be established at EU level. This ensemble of actions would be especially relevant for the technical-nautical services in so far as they contribute to the efficient and safe use of port and maritime infrastructure.
22. However, the heterogeneous nature of these services and the diverse nature of ports (in terms of their size, function and geographical characteristics), would require a differentiated approach to the liberalisation of the various types of port services and provisions for specific situations, including the possibility to grant exemptions in certain cases where justified. Any steps towards liberalisation would need to be introduced gradually in order to allow sufficient time for the sector to adapt.

#### **Comments are invited**

23. This Green Paper is intended to launch an active discussion involving the Council of the European Union and the European Parliament, the Economic and Social Committee and the Committee of the Regions, the port authorities, operators of the port and maritime industries and associated interested parties together with the trade unions and other organisations representing the social interests in the sector. Comments and opinions are invited on all the positions set out in this Green Paper.
24. Comments should be sent to the European Commission, DGVII D/4, Rue de la Loi 200, B-1049 Brussels to the attention of Mr Aragon Morales (fax +32 2 2953076) at the latest by 1 April 1998. Comments may also be sent by e-mail to: [ports-green-paper@dg7.cec.be](mailto:ports-green-paper@dg7.cec.be)

## 1. Introduction

1. The port sector handles more than 90% of the Union's trade with third countries and approximately 30% of intra-Community traffic, as well as more than 200<sup>1</sup> million passengers every year. There is, therefore, a clear need for a modern, efficient and competitive European port sector which contributes to the principle of sustainable mobility and which enables maritime transport to be integrated, together with the other transport modes, into the transport chain. This has to be seen in the context of the great diversity which exists in the sector in terms of structure, operation, organisation and legal framework which all show great regional differences.
2. The Treaty of Rome established the fundamental Community rules with regard to competition, State aid, the freedom to provide services and the right of establishment. Furthermore, the Maastricht Treaty has introduced the principle of subsidiarity and laid down the rules concerning the establishment of a trans-European transport network, which aims to create an integrated transport network in order to achieve the objectives of the single market and to strengthen economic and social cohesion. Finally, the future enlargement of the European Union will see the extension of the existing EU legislation, including that concerning trans-European networks, to the acceding countries.
3. Competition between and within ports is increasing due to a number of factors. The realisation of a liberalised internal market including the market in transport services, technological changes including the application of information technology and standardisation of loading units, and the development of the trans-European network are all drawing the different parts of Europe closer together and providing transport organisers and users with greater choice in an intermodal transport environment. This increased inter-changeability brings into sharper focus any factors distorting trade flows between Member States and underlines the need for a Community framework in order to ensure the principle of free and fair competition.
4. Ports are important not only as centres of regional economic and social development and as part of the maritime transport system but also as interconnection points between seaborne and land-based modes of transport. The Common Transport Policy, as set out in the Commission's White Paper in 1992, emphasised the need to develop a more balanced transport system by promoting more environmentally friendly transport solutions such as intermodality and short sea shipping. From a maritime and ports perspective this concept was further endorsed in the Commission's Communication on Short Sea Shipping (1995)<sup>2</sup> and in the recent Communication "Shaping Europe's Maritime Future (1996)<sup>3</sup>. However, while European ports are handling more goods than ever the scale of intra-European maritime traffic is not fulfilling expectations as a desired alternative to a consistently increasing road transport sector.
5. The port sector has so far not been at the centre of the European transport policy debate. The purpose of this paper is, therefore, to launch a discussion on the European port sector to identify those issues which need to be addressed at Community level with a view to the development of, where necessary, coherent policies on individual port issues which should improve the performance of the sector while supporting the economic and social needs of the Community. The main objectives of such policies should be, firstly, to help increase port efficiency and improve port and maritime infrastructure by integrating ports into the multimodal trans-European network and, secondly, to meet the Community's responsibilities under the Treaty to ensure free and fair competition in the port sector.

<sup>1</sup> According to figures provided by the Member States

<sup>2</sup> The Development of Short Sea Shipping in Europe: Prospects and Challenges. COM(95)317. 05.06.95.

<sup>3</sup> "Shaping Europe's Maritime Future" - a Contribution to the Competitiveness of Maritime Industries. COM (96)84 of 13.03.96.

## 2. EU PORTS AND THE ECONOMY

### 2.1 In general

6. EU ports handle approximately 2.7 billion tons of cargo per year (1996 figures). In addition, ports provide essential connections to peripheral countries and islands and contribute to the development of the tourism industry. Turnover in EU ports, by maritime region, in 1993 was as follows:

| Region        | Deep Sea   | Inter-Regional | Regional   | Total       |
|---------------|------------|----------------|------------|-------------|
| Baltic Sea    | 47         | 121            | 98         | 266         |
| North Sea     | 359        | 494            | 355        | 1209        |
| Atlantic      | 136        | 219            | 19         | 374         |
| Mediterranean | 270        | 146            | 245        | 661         |
| <b>TOTAL</b>  | <b>812</b> | <b>980</b>     | <b>717</b> | <b>2510</b> |

Table 1. Estimated turnover in EU ports by region 1993 [million tons]<sup>4</sup>

The main features of recent developments in these four regions are summarised in Annex I

7. Profound trends in trade liberalisation and globalisation of the world economy are having a significant impact on international seaborne transport and ports, with long term effects difficult to predict. These trends have drastically weakened the link between manufacturing and the location of factors of production and have stimulated a noticeable shift in manufacturing activities towards countries with a comparative advantage.
8. In their turn, too, developments in international transport and communication technologies have been instrumental in shaping these processes. Containerisation and multimodal integrated transport have revolutionised trading arrangements for higher value-added goods and have given manufacturers and shippers more control and choice over the "production-transport-distribution" chain. Transport efficiency becomes even more necessary due to the nature of value-added goods which require fast transit times from origin to destination in order to increase traders' turnover and minimise inventory costs.
9. The capital-intensity of modern shipping, as a result of the need to achieve economies of scale and to offer a more frequent service of higher quality, has led to considerable capital concentration in the industry. Carriers are forming new alliances and logistic companies, often linked to European distribution services. Such rationalisation of services requires carriers to limit their ports of call. Concentration of cargo in a limited number of ports may make it more viable for high-volume modes such as rail to be used but it could alternatively lead to an increase in the use of road transport and thus run counter to a policy of shifting freight transport from road to sea.
10. Undoubtedly, further trade liberalisation will create new and stronger trade flows and demand for shipping services. Industry observers are not yet clear as to the "type" of shipping required. On the one hand, some see a continuing increase in ship sizes. On the other hand, others point out that the trends of world-wide port development (making direct port calls<sup>5</sup> financially attractive), diseconomies of scale in major ports, the development of transport infrastructure in peripheral Europe and a future road pricing policy less favourable to long-distance haulage could all lead to smaller ships making direct port calls. The effect could be a more balanced traffic flow and port development in Europe.
11. Whatever the likely future scenario, one thing remains clear. Europe's export competitiveness in a global economy increasingly depends on efficient and cost effective transport and port systems.

<sup>4</sup> Figures estimated on the basis of UN Commodity Trade Statistics for 1993 and port turnover data provided by the Member States.

<sup>5</sup> A direct port call is when a vessel goes directly to the final port of destination instead of calling at a (large) hub port first in order to reload the cargo into a smaller feeder vessel.



Furthermore, the substantial emphasis the Union attributes to the development of trans-European transport network, aiming at closer economic and social integration, creation of employment, growth, and sustainable mobility, emphasises the role ports have to play in the transport system. Indeed, the development of the Union's multimodal network would be seriously incomplete without including interconnecting points such as ports.

12. The Commission, therefore, finds it important to promote the port sector through a number of measures and actions aimed at improving its overall performance. These include actions to improve port efficiency, remove harmful obstacles to trade and promote improvements in port and port-related infrastructure so that ports reach a high standard throughout the Community taking into account the existing regional differences.

## **2.2 The changing role of ports in an increasingly competitive environment**

13. In Europe, as in many other parts of the world, ports have often been seen by governments as growth-poles and fulcrums of national and regional development,<sup>6</sup> and ports were often used as instruments of regional planning. Many Member States have done so by steering State investment, through regional policies, towards ports and port-related infrastructure, in order to encourage national development. Over time, the major European ports have become commercial transport and service centres for international and intermodal transportation with increasing container and roll on - roll off (Ro-Ro) facilities. For these kinds of operations, the cargo handling services are now largely standardised and rationalised and therefore less labour intensive. However, these ports still create value added activities by becoming handling, service, distribution and logistics centres for all modes of transport, providing new telematic and technological solutions, less burdensome administrative procedures and becoming active commercial players in the transport chain.

14. The completion of the internal market and the existence and further development of inland transport networks across Europe has intensified competition among ports significantly, particularly competition aimed at attracting unitised transshipment cargo. The disappearing national (captive) hinterlands mean that pricing, port development and financing decisions of a particular port may have marked effects on its neighbours, nationally and internationally. This raises the question of the relevance and desirability of a more co-ordinated approach to port development at pan-European level aimed, *inter alia*, at ensuring that ports compete on sound commercial grounds, both for existing and new trade, and at the same time highlighting the crucial role of ports in the optimisation of trans-European transport network. However, it must be borne in mind that ports are part of the overall transport system and that investment and pricing policies in other modes of transport may seriously affect them. Therefore, a new approach to the port sector should also be seen in the broader intermodal context.

## **3. EU PORTS AND THE COMMON TRANSPORT POLICY**

### **3.1 General**

15. Although ports have so far not been at the centre of the development of the common transport policy, their importance to the transport system is already reflected by their inclusion in a significant number of Community policies. Past and current developments in these fields are summarised in this chapter. Subsequent chapters address in greater detail two areas of particular importance for the future development of the common transport policy: financing and charging for infrastructure and port services.

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<sup>6</sup> Characteristic examples of this approach can be found in the Maritime Industrial Development Areas (MIDA) of Rotterdam, Antwerp, Le Havre, Marseille and Genoa.

### **3.2 The role of ports in the Trans-European Transport Network**

16. Articles 129 b and c of the Treaty on the European Union govern the development of the trans-European transport network (TEN-T). It requires the EU to promote the interconnection and interoperability of national networks and access to them, taking into account the need to link island, landlocked and peripheral regions of the Union with its more central areas. The aim is to enable citizens of the Union, economic operators and regional and local communities to derive full benefit from the internal market. Clearly, interconnection, interoperability and TEN-T optimisation in general cannot be achieved if ports are not included in the equation as a crucial element of an integrated European transport network.

17. In brief, the objectives of including ports in the TEN-T strategy can be summarised as:

- Increasing the efficiency of the European transport system;
- Encouraging growth of intra EU trade and trade with third countries including the Community's nearest neighbours (EFTA, Central and Eastern Europe, Mediterranean and North Africa);
- Overcoming congestion of the main land-corridors and minimising the external costs of European transport by contributing to the development of short sea shipping;
- Improving the accessibility of peripheral regions and strengthening the economic and social cohesion within the Community by enhancing the Community's internal maritime links, paying particular attention to island and peripheral regions.

18. The guidelines<sup>7</sup> for the development of TEN-T, setting out the priorities of the EU's transport infrastructure policy, do not include a map of ports. However, following a request from the Parliament when the guidelines were adopted, the port element is now being adapted in order to include a map of ports and revised criteria for identifying projects of common interest. The inclusion of seaports as important interconnection points is consistent with the concept of a multimodal network. Objective criteria, such as freight turnover figures, have been employed to establish the ports to be included in the map. Furthermore, it must take into account that one of the aims of EU transport policy is to promote short sea shipping and that the maritime element of the network often ensures important links to peripheral areas and islands. This would imply including ports in all parts of the Union in which projects eliminating bottlenecks can be located, while keeping in mind that including too many ports could be counterproductive to short sea shipping which requires a concentration of cargo to be feasible. It will therefore, be necessary also in the future to consider introducing additional, objective criteria for the identification of ports that could enhance the integration of ports into the multimodal chain.

19. In order to integrate ports into the multimodal network, priority needs to be given to projects of common interest which improve missing links between the ports and other modes, in particular railways and inland waterways, and to the implementation of Electronic Data Interchange (EDI) projects. The funding of such projects will be discussed in Chapter IV of this paper.

*Action*

**The Commission considers the full integration of ports into the TEN-T desirable for the establishment of the multimodal network taking into account, in particular, the need to ensure links to the peripheral areas and to encourage short sea shipping. A proposal to adapt the present guidelines for the development of TEN-T accordingly is being presented in parallel to this Green Paper.**

### **3.3 Connections to neighbouring third countries**

20. The Treaty and the TEN-T guidelines permit co-operation with neighbouring countries in order to promote projects of mutual interest and ensure the interoperability of networks at a pan-European level. One of the aims is to connect the TEN-T with networks outside the Union, particularly with

<sup>7</sup> Decision N° 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community Guidelines for the Development of the trans-European network.

