

Impact of EU Policy on Port Operations and Development

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Dublin 22 January 2009

Introduction



- European Ports Industry
- EU approach to ports
- Ports Policy
- Other Policy that has affected ports
- Issues



Existing Models



| Models | Land Ownership | Port Functions | |
|--------|----------------|----------------|----------------|
| | | Regulation | Cargo Handling |
| 1 | Pure Private | Private | Private |
| 2 | Private/Public | Public | Private |
| 3 | Public/Private | Public | Private |
| 4 | Pure Public | Public | Public |



Governance



- Continental European Ports fit 'landlord model'
 - Landowner and regulatory functions remain in public hands
 - Often operate under commercial lines
 - Cargo handling privatised
 - Models 2 and 3
- UK ports totally privatised
 - Model 1



EU Ports Policy



- 1970 Commission identified 2 main objectives
 - To ensure consistent application of Treaty rules with regard to competition and internal market freedoms
 - To achieve balanced development of European ports
- 1974 Commission set up Port Working Group made up of representatives from major ports
 - Considerable diversity in organisation, management, finance, legal obligations
 - Considered that this would not lead to serious distortions in competition requiring solutions at EU level



EU Ports Policy



- 1990s Common Transport Policy
 - Objective to develop a coherent European infrastructure network and to achieve sustainable mobility
- 1997 first publication on ports
 - Green Paper on Sea ports and maritime infrastructure
 - Liberal, free market perspective
 - Ports as terminals with mainly commercial activities
 - Considerable involvement of the private sector



EU Ports Policy



2001 – Port Services Directive

- Rules for market access to port services
- The way in which port authorities would use concessions to give access to potential service providers ensuring market contestability and intra port competition
- To prevent discrimination from port authorities engaged in the provision of port services



Ports Services Directive



- Opposition from northern European ports, particularly the UK
 - One size fits all approach
 - Favoured landlord ports
 - Different situations in the different countries needs to be recognised
 - Restrictions on competition will remain
 - Threats to exploitation of economies of scale
 - Possible development of oligopolies and or small monopolies
- Opposition from unions
 - Self handling



Ports Services Directive



- European Parliament rejected the Directive proposal in November 2003
- Redrafted but rejected again in January 2006



2007 Ports Policy Communication



- Stakeholder consultation 2006-2007 lead to the Communication
- Communication adopted 18 October 2007
- Guidance rather than legislation
- Covers six areas



2007 Ports Policy Communication – 6 areas



- Port performance and hinterland connections
- Expanding capacity while respecting the environment
- Modernisation
- A level playing field
- Structured dialogue between ports and cities
- Work in ports



Ports Policy Issues



- Guidelines on application of environmental legislation
- State Aid guidelines



Ports and Environment



- The Council Directive 79/409/EEC on the **protection of wild birds** (April 1979)
- The Council Directive 92/43/EEC on the **conservation of natural habitats and of wild fauna and flora** (May 1992)
- **NATURA 2000** is a network of protected areas across the EU, which was established in 1992.
 - **Special Protection Areas** (SPA's) – Birds Directive
 - **Special Areas of Conservation** (SAC's) - Habitats Directive.



Problems with Environmental Directives

- The implementation of the Birds and Habitats Directives is not consistent throughout the EU.
- Certain concepts are not clear (e.g. “likely significant effect”, “adverse effect”, “over riding public interest”) and are interpreted in a different manner from Member State to Member State . Therefore, depending on the interpretation taken by each regulator at national level, these texts may be applied in a more or less strict manner.
- For estuaries, the scientific criteria in the Directive are not explicit, leading to inconsistencies in implementation.
- These differences in the application of the Directives lead to distortion of competition because infrastructure development is subject to stricter conditions in certain ports.

Ports and Environment



- Many of the EU's big port expansion projects have fallen foul of the legislation, which covers more than 25,000 sites across the EU.
- Development in a Natura 2000 site can only take place if there are no alternatives. If environmental damage is inevitable, mitigation and compensation measures are required.
- Compensation expensive



Ports and Environment



- Port expansion projects in Antwerp, Rotterdam and Helsinki have all been held up by Natura 2000.
- In Southampton, a port expansion project was eventually cancelled after years of struggling with opposition from environmentalists.
- Recognising that the ports sector has been hit by the directive possibly more than any other area, the commission has now committed itself to drawing up industry-specific guidelines for future expansion projects.



Ports and State Aid



- Consultation on state aid reform on large investment projects
 - Commission consider state aid compatible with common market if granted to promote economic development of certain disadvantaged regions



Conclusions

- EU Port policy has had a significant impact on port development
- Cannot have a totally 'hands off' approach because of issues of
 - Safety
 - Environment
- Need to achieve balance and consistency
- Ports have to accept that the state at national and regional level has a role to play – markets fail
- What are the implications of the changing political and economic climate ?