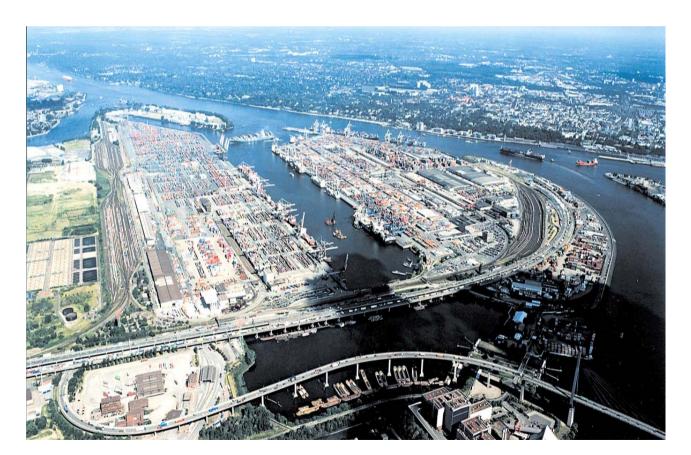


# EU Consultation on Ports Policy A Statement of HPA concerning the Workshop Port Financing on 18-19 January 2007 in Hamburg

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## Calendar consultation workshops

- 14.-15.11.06 **Antwerp** Port services (fair competition, concessions, position of port authorities)
- 18.-19.01.07 Hamburg: Port financing (State Aid, Transparency of accounts, financial autonomy of ports, tarification)
- 14.-15.02.07 **Lisbon** Sustainable development of port capacity and environmental issues, general transport policy issues, inter-port cooperation)
- 8.-9.03.07 **Valencia** Port-internal operational bottlenecks (cargo-handling and capacity, technical-nautical services, labour issues)
- 19.-20.04.07 **Naples** Port-external operational bottlenecks (hinterland connections, customs, logistics)
- 9.-10.05.07 **Tallinn/Helsinki** Competition from non-EU ports, proactive behaviour of port sector and positive image of seaports



## Non-Paper

 Emphasis: does not represent any official position of the Commission

 Subjects covered and questions placed have the only objective to structure and focus the debate



## Non-Paper

- Several scenarios at the end of the consultation process
- 3. "do nothing" option: no inititiative and leave market forces regulate themselves within the limits of the EU Treaty
- "soft law" option: elaboration of documents interpreting the Treaty or existing legislation in respect of their application to ports
- 5. "legislative" option: elaborate a ports specific catalogue of legislative measures
- 6. Combinations of options 1, 2 and 3



## Non-Paper Summary of questions: State aid

- Ist the suggested classification of the different items composing port infrastructure correct and complete?
- 3. Basic Infrastructure
  - Breakwaters, Access to sea: construction and dredging of fairways, etc.
- 4. Infrastructure
  - Locks, Basins, Quay walls, docks, Quays and jetties
- 5. Superstructure
  - Building and paving of terminals
  - Warehouses and other storage facilities
  - Construction of other fixed facilities in terminals
  - Rails and roads in port areas
  - Cranes, Quay equipments
- 6. Navigational aids
  - Lighthouses, Buoys, Lights



## Non-Paper Summary of questions: State aid

- What is the impact
  - on competition of public funding of "basis infrastructure", of "infrastructure" and of "superstructure"?
  - on competition between ports? Within a same port?
  - of public support to the extension of existing facilities?
  - in the case of an extension of a facility already operated by a company?
  - on competition of the absence of any recovery of investment cost by "land lord" or equivalent entities?
- Are there reliable means other than a tender procedure for setting the market price for the use of infrastructure?



## Non-Paper Summary of questions: Port tariffs

- Are port tariffs and services always easily available for the public?
- Are transparent and objective criteria for rebates or equivalent advantages always applied to ports custommers (in particular shipowners)?
- Is gross tonnage still a good criterion for calculating port dues?
- Is this criterion detrimental to short sea shipping?



## Non-Paper Summary of questions: Financial autonomy

- Is there any role for the Community to promote financial autonomy of ports?
- Should the scope of directive 80/723 be modified in order to cover port managing entities irrespective of their legal status?



## "port financing" as a key subject of a coherent port policy framework

- must consider the overall objective to strengthen the competitiveness of EU ports
- must respect the different systems and organisational forms in the Community ports



## Fundamental point:

 EC-Treaty rules on State aid allow public funding to some extent

## Main objective of State aid guidelines:

- common application of existing State aid rules to create a fair level playing field
- legal clarity and legal certainty for the port sector to stimulate investments



## Central field of considerations:

- Financing of the creation and maintenance of port infrastructure and superstructure
- ➤ Need for a precise dividing line between different parts of infra- and superstructure and different activities of the managing body of a port



 Some general documents inform about previous and expected practice of the Commission:
 Commission's Green Paper of 1997, Commission's Communication of 2001, Vademecum of 2002 and

some individual decisions (Flemish Ports, Reebok)

But there remain legal uncertainties, "grey areas" and controversial statements of the Commission



## Categories of infrastructure needs:

- precise definitions
- combined with a list of examples
- > and derived principles

- legal criteria of Art. 87 (1) EC-Treaty essential
  - >key criterion: selectivity



- Some examples for legal uncertainties ("grey areas") in the port sector:
  - quay walls
  - creation of new land and water areas
  - land lease / quay wall rents in the port
    - ➤ Market economy investor principle



- Clear rules and definitions for future funding schemes
- with a reasonable transitional period



#### 3. Tarification

## Port tarification needs

- a transparent system, based on clear rules and publicly available,
- but there is no objective reason for introducing a community framework

## > Transparency but not harmonisation



#### 4. Transparency

 Transparency and separation of accounts in the field of public financing in ports

- Extend Transparency Directive to all seaports to
  - indicate direct and indirect forms of financial assistance
  - >keep separate accounts



#### 5. Conclusion

## A future EU port policy should include / respect the following aspects:

- ➤ Clear rules on port financing for the future to achieve legal clarity and legal certainty and create a level playing field
- Port tarification needs transparency but not harmonisation
- ➤ Strict and comprehensive application of the Transparency Directive to all ports



# Thank you for your attention!

