

COM-3/047

Brussels, 2 October 2001

**OPINION**

of the Committee of the Regions

of 20 September 2001

on the

**Communication from the Commission to the European Parliament and the Council - Reinforcing quality service in sea ports: A key for European transport, and Proposal for a Directive of the European Parliament and of the Council on market access to port services**

(COM(2001) 35 final - 2001/0047(COD))

**Commission Staff Working Document on public financing and charging practices in the Community sea port sector (on the basis of information provided by the Member States)**

(SEC(2001) 234)

**Proposal for a Directive of the European Parliament and of the Council on reporting formalities for ships arriving in and departing from Community ports**

(COM(2001) 46 final - 2001/0026(COD))

**The Committee of the Regions,**

**HAVING REGARD TO** the Communication from the Commission to the European Parliament and the Council "Reinforcing quality service in sea ports: A key for European transport" and the Proposal for a Directive of the European Parliament and of the Council on market access to port services (COM(2001) 35 final - 2001/0047 (COD));

the Commission Staff Working Document on public financing and charging practices in the Community sea port sector (on the basis of information provided by the Member States)

(SEC(2001) 234) and

the Proposal for a Directive of the European Parliament and of the Council on reporting formalities for ships arriving in and departing from Community ports

(COM(2001) 46 final - 2001/0026 (COD))<sup>1</sup>;

**HAVING REGARD TO** the decisions taken by the Council on 26 February and 13 March 2001 to consult it, under Articles 265(1) and 80 of the Treaty establishing the European Community;

**HAVING REGARD TO** the decision taken by its Bureau on 13 June 2000 to direct Commission 3 for Trans-European Networks, Transport and Information Society to draw up the relevant opinion;

**HAVING REGARD TO** Decision 1692/96/EC of the European Parliament and of the Council on Community guidelines for the development of the trans-European transport network;

**HAVING REGARD TO** Directive 2000/52/EC on transparency of financial relations between Member States and public undertakings;

**HAVING REGARD TO** Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community;

**HAVING REGARD TO** the draft opinion adopted by Commission 3 on 4 July 2001 (CdR 161/2001 rev. 1) (rapporteur: **Mr Lamberti**, I/PSE);

**WHEREAS** sea shipping is already very important in the Community and should be developed in order to establish an efficient intermodal transport network as an alternative to land transport;

**WHEREAS** ports are crucially important for the implementation of the above, hence the need for Community-level provisions establishing the right legislative framework to uphold the competition principles and fundamental freedoms enshrined in the EU Treaty and to improve the efficiency of the procedures currently in force in ports, while also upholding the subsidiarity principle;

**WHEREAS** port development is extremely important for coastal regions and local authorities inasmuch as it can have a weighty impact on the overall economic development of a community;

**unanimously adopted the following opinion at its 40<sup>th</sup> plenary session of 19 and 20 September 2001 (meeting of ...):**

**1. Proposal for a Directive of the European Parliament and of the Council on reporting formalities for ships arriving in and departing from Community ports**

The Committee of the Regions:

1. fully agrees with the directive's aim to promote short sea shipping by streamlining the reporting formalities contained in forms to be filled in for ships arriving in or departing from ports;
2. therefore agrees that the Member States ought to recognise the following standardised IMO forms (provided for under the IMO FAL Convention):

- IMO FAL Form No. 1 - General Declaration - containing information relating to the ship;
- IMO FAL Form No. 3 - Ship's Stores Declaration;

- IMO FAL Form No. 4 - Crew's Effects Declaration;
  - IMO FAL Form No. 5 - Crew List - containing information relating to the number and composition of the crew;
  - IMO FAL Form No. 6 - Passenger List - for ships certified to carry 12 passengers or fewer;
    3. agrees that it would be inappropriate to recommend the use of IMO FAL forms in the following cases:
      - IMO FAL Form No. 2 (Cargo Declaration) would increase rather than reduce the administrative burden on sea shipping, as the information required by the form is already contained in the cargo manifests used by ships for both commercial and administrative purposes;
      - IMO FAL Form No. 6 is inappropriate for ships certified to carry more than 12 passengers, as the rules set out in Directive 98/41/EC require more detailed information, designed to safeguard life at sea (e.g. the need for special care and assistance), than the IMO form in question;
        4. approves the technical specifications made for the forms and the requirement that the authorities responsible for controls must recognise as valid information conveyed by any legible medium, including forms produced by automatic data-processing techniques;
        5. endorses the procedure proposed for amendments to the directive's annexes and references to IMO instruments as set out in Article 5;
        6. believes that the Article 7 deadline for the harmonisation of national legislation by the Member States should be fixed at a year following the adoption of the directive.
2. **Proposal for a Directive of the European Parliament and of the Council on market access to port services**

The Committee of the Regions:

1. believes that sea ports policy should in future also be framed from an economic and transport policy standpoint, and be more commercially and business-oriented. Restrictions or monopolies - whether public or private - on pilotage, towage, mooring and stevedoring, for example, must be phased out;
2. suggests that it should be made clear that the directive covers typical port services, including those of ports located on river estuaries which are nonetheless recognised as

seaports;

3. believes that the point made in Article 6(5) should be clarified, as the directive expressly requires Member States to ensure that their own social legislation is applied;
4. feels that efficiency, transparency and free access to the market for port services could be improved without removing the limitations on numbers of service providers (Article 7), but rather by securing market access for potential service providers by applying tender procedures in accordance with the principles set out in the relevant Community law;

It also believes that the plan for the competent authorities to authorise at least two service providers for each category of cargo handled would be difficult to implement and incompatible with certain types of traffic; the problem is not only the space and capacity available (these being cited as constraints justifying a limit on the number of service providers) but also cost effectiveness, market size and the economic viability of companies. The scope of technical-nautical services should be extended to sea approaches and rivers forming the approach to ports. The directive should also make it possible to combine port, sea and river pilotage services in invitations to tender. It is also necessary to carefully assess safety issues with regard to the inclusion of rules governing technical-nautical services (with specific reference to pilotage in particular) that are general services but with highly specific characteristics, for instance in terms of the professional skills required. The CoR believes self-handling should not be allowed, for specific reasons of port safety.

5. considers that the directive should clarify whether the problems of available space and capacity mentioned in Article 7 must arise from a de facto situation or rather from predictions to be made by the competent authority; examples of "exceptional circumstances" should be given and the concept of "category of cargo" defined;
6. agrees that selection procedures must apply the criteria of transparency and objectivity and that selection criteria must be proportionate, non-discriminatory and relevant;

Referring to Article 8(6), however, it feels that the principle of non-discrimination contained in Article 12(4) and the possibility for appeal provided for under Article 13 could be sufficient to make it unnecessary for Member States to appoint other authorities to carry out the selection procedures in question.

7. is of the view that the maximum duration for authorisations mentioned in Article 9 is too short, as it would not provide enough time where major investments have been made by the authorised parties. The result could be a reduced tendency to invest, with a consequent reduction in the efficiency of port systems;
8. with due respect for the principle of subsidiarity, feels that the directive should define the scope and limits of self-handling (Article 11) and specify that Member States authorising self-handling may not apply less strict rules than those applied to parties providing that service;
9. believes that the transitional regime provided for under Article 16 should be reviewed and possibly extended, in view of the implications of introducing new legislation.
10. takes the view that there must be a level playing field for competition between and

within European ports. This includes the need for financial transparency between Member States and public undertakings and port service providers;

The Committee of the Regions therefore broadly endorses the Commission document, subject to the above observations.

**3. Commission Staff Working Document on Public Financing and Charging Practices in the Community (Sea Port Sector)**

The Committee of the Regions welcomes the working document but feels that before legislative proposals can be made, further work is needed on certain aspects which the Commission itself recognises were not sufficiently clarified by the survey.

**General comments**

The Committee of the Regions:

supports all measures aimed at developing European ports and sea shipping;

approves the overall thrust of the Commission's proposals for improving sea shipping, not least by simplifying procedures, with particular reference to short sea shipping, as they will help to create the conditions within the European Union for the sustainable development of intermodal-oriented transport and thus the development of sea shipping as a valid alternative to land transport;

emphasises that the implications of this are of great interest to the regions and local authorities, which as the champions of the interests of the communities they represent are committed to comprehensive sustainable development;

recommends the preparation of further measures with a view to harmonising and simplifying the administrative procedures required for ships, in order to make sea shipping increasingly competitive, not least by relying increasingly on the new tools offered by technology for transmitting and validating documents, while also providing aid to bring the sea shipping sector more up-to-date in that domain;

recommends that further attention be given to individual articles of the directive on access to port services and that changes be made as described by the Committee in this opinion.

Brussels, 20 September 2001.

The President

The Secretary-General

of the

of the

Committee of the Regions

Committee of the Regions

**Jos Chabert**

**Vincenzo Falcone**

<sup>1</sup> OJ C 180 E of 26.6.2001, pp. 85-93

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CdR 161/2001 rev.1 IT/SG/CAT/ .../...

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