

Harbour Light

Port and transport related EU policy and regulations
The professionals' guide

fourth revised edition



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Fourth, updated and revised edition

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Foreword



Victor Schoenmakers
**Chairman European
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We are very pleased to present this new edition of *Harbour Light*, a publication that sheds light on EU port and transport-related policy and regulations. Thousands of pages from European institutions are available on the internet, but it is not always easy to have an overview on what is happening at European level or to find the exact status of a certain topic. *Harbour Light* is intended for those of you who do not have the time to have a look through all these internet pages. Or for those of you who cannot see the wood for the trees.

Harbour Light gives a general overview of the content and state of decision-making of 46 selected European files, which relate to ports and transport. In addition to these files, some relevant documents (directives, guidelines, communications, draft texts, ...) have been added. These documents can be downloaded from the website of the Flemish Port Commission, on which the digital version of *Harbour Light* is updated on a regular basis. A glossary of the most important terms from the European jargon is to be found in the annexes of this document. In addition, the most important decision-making procedures are also explained.

Harbour Light results from the cooperation between three organisations: the Flemish Port Commission (FPC), the National Ports Council (NPC, the Netherlands¹) and the European Sea Ports Organisation (ESPO). These organisations have different tasks,

¹ The NPC was abolished on 1 January 2012. The main tasks of the NPC were taken over by the Dutch Ministry of Infrastructure and Environment. See former editions of *Harbour Light* (Wegwijzer) for further information.

goals and represent different interests, but they do have a common ambition to inform their members on European port and transport policy matters. And that is exactly the purpose of *Harbour Light*.

We hope that this publication will achieve its aim of providing useful, condensed and accurate information on the most important European policy files. For those who want to know the highlights, this synthesised information should be sufficient. For those who seek more, these topics and documents provide a starting point.

About the authors

The authors are Jean-Pierre Merckx (secretary) and Dirk Neyts of the Flemish Port Commission, and Otto Rosier, who was secretary at the National Ports Council until 31 December 2011 and is now employed by the Ministry of Infrastructure and the Environment in the Netherlands. They take and took care of organising appropriate meetings in FPC and NPC on relevant policy developments and decision-making in the European Council of Ministers and the European Parliament. This booklet is the result of their expert research. The European Sea Ports Organisation (ESPO) reviewed and endorsed the content and ensured the translation into English. In particular H  l  ne Vancompernelle, Dani  lla Arbyn Havugimana, Ombeline d'Hollander, Martina Fontanet, Antonis Michail and Patrick Verhoeven are to be mentioned here.

Former editions of Harbour Light

The first Harbour Light (Wegwijzer) was written in 2004 in Dutch by the secretariat of the Flemish Port Commission (FPC), the advisory body on Flemish port policy. As from the third edition (2009) Harbour Light was the product of the collaboration between the FPC and the Dutch National Ports Council (NPC, the Dutch advisory body on port policy issues). Concerning the NPC, it should be noticed that this council does no longer exist since 1 January 2012. However, most of the tasks of the NPC were taken over by the Dutch Ministry of Infrastructure and Environment. The Ministry took its share in finalising this edition of Harbour Light.

Figure 1: Different EU topics influence ports



Hinterland connections

TRW	Technical requirements for inland waterway vessels	1982 ■ 1997 ■ 2006 →
RAI	Railways	1991 ■ 2004 ■ 2011 →
SSS	Short Sea Shipping	1995 ■ 2002 ■ 2010 →
TEN	Trans-European Networks	1996 ■ 2003 ■ 2011 →
HGV	Eurovignette, charging of heavy goods vehicles	1999 ■ 2011 →
IMT	Intermodal Transport	2000 ■ 2001 →
ILU	Intermodal Loading Units	2003 ■ 2009 ↓
MOS	Motorways of the Sea	2004 →
RIS	River information services on inland waterways	2005 ■ 2007 →
IWW	Inland waterways / NAIADES	2006 ■ 2008 →
TDG	Directive on transport of dangerous goods	2008 →
LHV	Ecocombi's - longer and heavier vehicles	2011 →

OURS

Safety on seas and in seaports

PSC	Port State Control	1995 ■ 2002 ■ 2005 →
BUL	Safe loading and unloading of bulk carriers	2001 →
LTS	Level of training of seafarers	2001 ■ 2003 ■ 2005 →
ERI	Maritime Safety: Erika I, II and III	2001 ■ 2004 ■ 2006 →
DHT	Double Hull tankers	2002 ■ 2007 →
MON	Monitoring Directive	2002 ■ 2009 →
STE	Security of terminals	2004 →
SPO	Security of ports	2005 →
STC	Securing the transport chain	2006 ■ 2010 ↓
BSD	Green Paper on better ship dismantling	2007 ■ 2008 →

Transport policy in a seaport context

1	GRP	Green Paper on Ports and Maritime Infrastructure	1997 ■ 2001
2	PDI	Port Services Directive	2001 - 2002 ↓ 2004 - 2006 ↓
3	SIM	Services in the Internal Market	2006 →
4	IMP	Integrated Maritime Policy	2006 →
5	EPP	European Ports Policy	2007 ■ 2010
6	LPA	Logistics Package	2007 ■ 2010
7	WHP	White Paper - Roadmap to a Single European Transport area	2011 →





Green Paper on Ports and Maritime Infrastructure

The Green Paper on Ports and Maritime Infrastructure of December 1997 (GRP-001) intended to launch a debate on the efficiency of seaports and maritime infrastructure, on the integration of ports in the Trans-European Networks (TEN) and on the application of EU competition rules in the port sector. Thanks to this Green Paper, for the first time, particular attention was paid to seaports at EU level.

The Green Paper pointed out the important role of seaports in TEN-T and pleaded for Short Sea Shipping and its integration in a multimodal transport system. The Green Paper also emphasised Maritime Safety. In addition, there was substantial focus on the financing of ports. On this point, the Green Paper ascertained that the way port charges are calculated vary widely between Member States. This is linked to large differences in ownership and organisational structures. Ports are evolving into commercial entities that are supposed to charge their costs to port users. The Green Paper also raised the lack of transparency in port accounts, which is a key condition for the application of State Aid rules.

Another crucial issue in the Green Paper was the organisation of market access. This part formed the basis for the European Commission's proposals for a Port Services Directive (see chapter 2).

Content-wise, the Green Paper on Sea Ports and Maritime Infrastructure is now largely outdated, but it remains a milestone in the history of the European Ports Policy. For further information on the current status of European Ports Policy we refer to chapter 5, "European Ports Policy" (EPP).

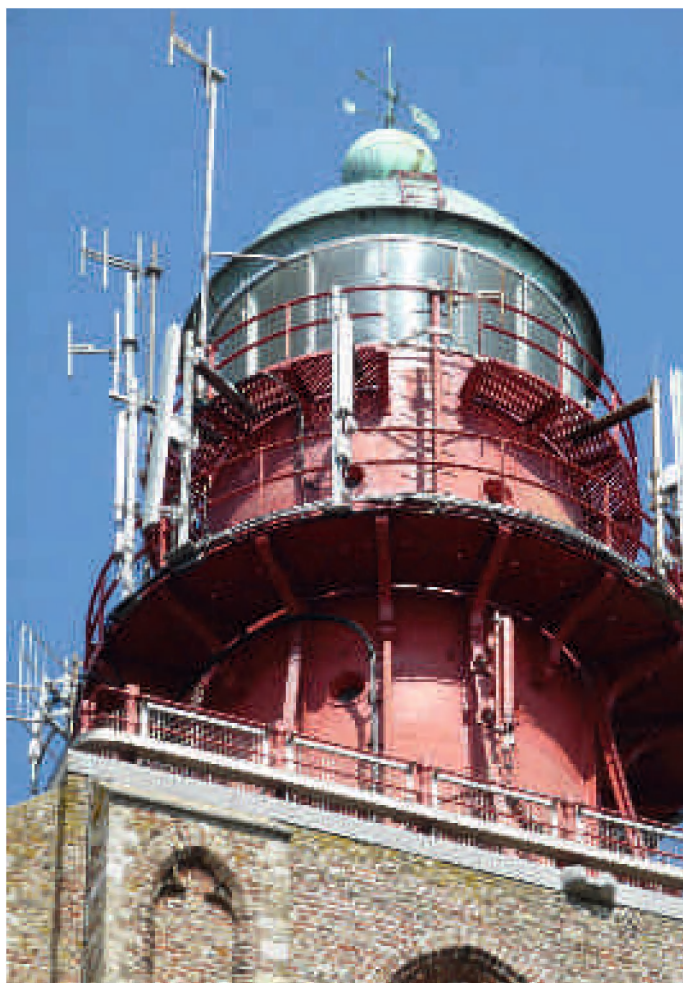
Some relevant documents

- *GRP-001: Green Paper on Ports and Maritime Infrastructure (European Commission)*

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Port Services Directive

Following the discussion on the Green Paper on Seaports and Maritime Infrastructure (see chapter 1), the European Commission formulated a proposal for a Directive on Market Access to Port Services on 13 February 2001. The Port Services Directive was part of a communication from the Commission to the European Parliament and the Council on Reinforcing Quality Service in Seaports: a key for European Transport (PDI-001).



The original proposal for the Directive contained rules of procedure to improve market access for port services. Per port service and per cargo category, at least two independent service providers should have access to the market. These service providers should be allowed to select and recruit their own staff. Shipping companies which hire their own staff and members of the ship's crew should also be allowed to take part in servicing a vessel in a port, a provision which was referred to as 'self-handling'.

Parliament and Council could not reach an agreement neither in first, nor in second reading of this proposal. Also the conciliation procedure failed. Subsequently the European Commission withdrew its proposal.

On 13 October 2004, the European Commission proposed a new draft Directive (PDI-002). Content-wise, the second proposal differed little from the first one. It did not take into account those areas on which Parliament and Council had previously reached consensus already. The proposal did not make it through first reading. At the plenary meeting of the European Parliament on 17 and 18 January 2006, the proposal was rejected. On 13 March 2006, the proposal was definitively withdrawn.

Following the second withdrawal, the European Commission organised an extensive consultation, which resulted in a Communication on European Ports Policy that was published on 17 October 2007 (see chapter 5, "European Ports Policy" (EPP)).

Some relevant documents

- *PDI-002: Proposal for a Directive of the European Parliament and the Council on market access to port services (European Commission)*
- *PDI-001: Communication from the Commission to the European Parliament and the Council: Proposal for a Directive of the European Parliament and the Council on market access to port services*

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Services in the Internal Market

A competitive services market is essential in order to promote economic growth and create jobs in the European Union. Numerous barriers within the internal market prevent providers, particularly small and medium-sized enterprises (SMEs), from extending their operations beyond their national borders and from taking full advantage of the internal market. This weakens the worldwide competitiveness of service providers in the European Union. Services constitute the engine of economic growth and account for 70 % of GDP and employment in most Member States.

The Directive on services in the internal market was part of a sustainable economic reform programme which aimed to make the European Union the most competitive and dynamic knowledge-based economy in the world by 2010.



On 12 December 2006, Parliament Council agreed on Directive 2006/123/EC (SIM-001). This Directive establishes a general legal framework which benefits a wide variety of services while taking into account the distinctive features of each type of activity or profession and its system of regulation.

Provisions of this Directive concerning freedom of establishment and the free movement of services should only apply to activities open to competition, so that they do not oblige Member States either to liberalise services of general economic interest, to privatise public entities or to abolish existing monopolies for other activities or certain distribution services.

The Directive proposal initially attracted considerable attention from the port sector as it was not yet known if any specific service sector would be excluded from the Directive. It turned out that the port sector would not fall within the scope of the Directive, as stated in article 2 section 2 point d: This Directive does not apply to (...) services in the field of transport, including port services, falling within the scope of title V of the Treaty.

Some relevant documents

- *SIM-001: Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.*

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4 IMP

Integrated Maritime Policy

Blue Paper

In March 2005, the European Commission announced a European Integrated Maritime Policy. In June 2006, the Green Paper on a European Maritime Policy was published. The Commission then started a comprehensive consultation process (IMP-001), which resulted in a Commission Communication, called: 'Blue Paper - Communication on an Integrated Maritime Policy for the European Union'. This Blue Paper was presented to the European Parliament,



the Council, the European Economic and Social Committee and the Committee of the Regions. (IMP-002, IMP-003 and IMP-004). On 14 December 2007, the Council agreed on the further development and execution of the Action Plan belonging to the above-mentioned Communication.

The Integrated Maritime Policy has a two-pillar approach. The first pillar is the Lisbon-agenda concerning employment and growth. The second pillar is the Göteborg-agenda, which concerns sustainability. The second pillar has, amongst others, been integrated in a European Marine Strategy, which has been anchored in the meantime into the Marine Strategy Framework Directive (see chapter 41). This Marine Strategy forms the environmental pillar of the European Maritime Policy.

The Communication forms the basis of a governance framework and a cross sector instrument for a Community Integrated Maritime Strategy. It also gives an overview of the most important activities for which the Commission sees itself mandated. The guiding principles for these actions are subsidiary, competition, the ecosystems approach and the participation of all relevant stakeholders.

Action Plan

The Action Plan illustrates the extent and the diversity of the work that has to be accomplished. The following projects are particularly important for seaports:

- Maritime Spatial Planning and Integrated Coastal Zone Management. In 2008 the European Commission published a Road Map on Maritime Spatial Planning, see chapter 44 (MSP).
- European Maritime Transport Space Without Barriers. On 30 November 2010, the European Commission started 'Blue Belt', a pilot project by which sea-going vessels can move freely in the Internal Market with a minimum of administrative formalities, commonly associated with maritime transport. The Blue Belt project joins the Motorways of the Seas initiative. By easing administrative formalities, the Commission hopes to bring a model shift from road to coastal navigation (see also chapter 10).
- Seaport Policy. In the frame of the Communication of the European Commission on a European Ports Policy, guidelines were announced on the implementation of EU environmental and ecological rules connected to seaport development (see also chapters 5 and 30).
- Air pollution by ships. The European Commission wanted to promote the use of shore-side electricity in European ports. In that extent, the Commission planned a series of initiatives (see chapter 33).
- Scrapping of vessels. Further developments to the European initiatives concerning a strategy for the scrapping of vessels are planned (see also chapter 29).
- European Maritime Day. In the meantime, the European Commission declared 20 May to be the European Maritime Day. The event has been celebrated since 2009, with editions in Rome, Gijón, Gdansk and Gothenburg.

Progress report 2009

On 15 October 2009, the European Commission published a progress report with the results of the Integrated European Maritime Policy. This report was presented to the Council. On the basis of the outcome of the Council meeting of 16 October 2009, the European Commission presented a programme for the further development of the Integrated European Maritime Policy. The budget is 50 million euros for the period 2011-2013. The programme has six key components: (1) Integrated Maritime Gover-

nance, (2) pin pointing of specific challenges and needs, (3) Maritime Spatial Planning and Integrated Coastal Zone Management, (4) building a Marine Knowledge base, (5) active search for synergies and sharing of information and (6) sustainable economic growth.

The European Parliament gave its support to the Commission proposal published on 21 October 2010 on the development of the Integrated European Maritime Policy - Evaluation of progress made and new challenges. The available budget for 2014 depends on the Financial Perspectives (overall EU budget). The European Parliament called on the Commission to investigate all available options, including a proposal of the Committee of the Regions for a Coastal Fund.



Communication Blue Growth 2012

On 13 September 2012, the Commission published a Communication on Blue Growth: opportunities for marine and maritime sustainable growth. The Commission identified five areas where additional effort at EU level could provide further stimulus, in line with the objectives of the Europe 2020 strategy: maritime, coastal and cruise tourism, Blue energy, marine mineral resources, aquaculture and blue biotechnology. With increasing awareness of the blue economy and with further analysis, other promising areas for EU policymaking may emerge. The Communication launched a consultation process which will place the blue economy on the agenda of Member States, regions, enterprise and civil society. This consultation process aims at providing the extra push that the blue economy needs.

Some relevant documents

- IMP-005: *Communication from the European Commission on "Blue Growth: opportunities for marine and maritime sustainable growth" to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions.*
- IMP-004: *Accompanying document to the communication "An Integrated Maritime Policy for the European Union" (European Commission)*
- IMP-003: *Communication "Conclusions from the Consultation on a European Maritime Policy" (European Commission)*
- IMP-002: *Communication "An Integrated Maritime Policy for the European Union" (European Commission)*
- IMP-001: *Green Paper "Towards a future Maritime Policy for the Union: A European vision for the oceans and seas" (European Commission)*

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European Ports Policy

2007 Ports Policy Communication

Following the withdrawal in 2006 of the second Directive proposal on market access to port services, the European Commission organised a wide-ranging consultation of stakeholders and Member States through a series of workshops and two conferences. On 18 October 2007, this consultation round led to a Communication from the Commission on a European Ports Policy (EPP-002 and EPP-003). The Communication focused on seven themes:

- Future port development
- Financing, transparency and port dues
- Port Concessions and Nautical Services
- Environmental regulations
- Modernisation
- Dialogue between ports and cities
- Labour conditions

In the Communication, several policy initiatives were announced, a number of which ended up in concrete initiatives or policy actions. The following sub-sections summarise the main provisions and elaborate progress made on the various action points.

Trans-European Networks

In 2010, the Commission held a mid-term review of the Trans-European Transport Network (TEN-T). This review consisted of an evaluation of the conditions and needs of the connections between seaports and the hinterland, and the impact on the balanced network of cargo flows. On 30 March 2011, the European Commission proposed a review of the TEN-T policy (see chapter 11).

Guidelines concerning state aid to seaports

The European Commission recognised that important tasks are better accomplished if port authorities can work with a certain degree of autonomy. Particularly financial autonomy was seen as a prerequisite for an effective allocation of investments and ultimately for the development of ports. In certain markets a strong level of competition exists not only between, but also within ports. This calls for a level playing field in terms of public funding. State aid guidelines would help achieving this.

Although these guidelines have already been formally announced, they haven't been published up to now and it may take a while before they are, if they will ever see the light of day at all. In 2010, the responsibility of drawing up these guidelines was transferred from the Directorate General for Mobility and Transportation to the Directorate General for Competition. DG Competition ordered an external study on financing and charging in the port sector. This study was finalised in summer 2012, but, so far, the results were not published. Given that DG Competition is currently focusing on the overall modernisation of its State Aid rules, it is very unlikely that sector-specific guidelines for ports will emerge in the near future.

Simultaneously, the European Parliament requested an external study to compare public financing of ports in northern Europe and in southern Europe. Countries such as Belgium, Germany, France, The Netherlands and the United Kingdom are part of the first group, whereas Greece, Italy, Slovenia and Spain are classified in the second group. This study - 'State Aids to EU ports' - was published in December 2011. It has the following recommendations: (a) There are problems with the existing rules for the review of State Aid for the infrastructure and/or superstructure of European seaports. (b) It is necessary to amend the rules on review, or to establish guidelines in order to set up adequate rules. (c) Probably there are no other options that could improve the coherence and effectiveness of European competition policy as regards financing infrastructure and/or superstructure of seaports.

In spring 2012, a report was published by the European Court of Auditors on 'Using of structural and cohesion funds to co-finance transport infrastructures in seaports: an effective instrument?' The Court analysed 27 port projects in France, Spain, Italy and Greece. Total investment: over 1.700 million euros, of which over 725 million euros is co-financed through EU funds. Only 11 projects proved to be effective. The Court made a number of recommendations to the European Commission and to the managing authorities.

Even though state aid guidelines for ports do not exist, the Commission examined the financing of a number of individual projects and their compliance with EU Treaty rules on State Aid. Test-cases are for example the financing of Flemish seaports, the construction of Maasvlakte II, the construction of JadeWeser port

close to Wilhelmshaven and projects in the ports of Piraeus and Ventspils. Throughout these cases one notices a clear evolution in thinking. Before a distinction between general and commercial infrastructure was made, but now the latter cases consider public funding of any type of infrastructure a priori as a form of State aid that would have to be notified.

Application of the Transparency Directive on ports

The Ports Policy Communication announced measures to extend the scope of the Transparency Directive to all commercial ports, regardless of their size. Concrete measures have, however, not yet been taken.

Transparency of port charges

The European Commission promoted more transparency on the components of port charges and on the link between these charges and the relevant costs. In its Communication, the Commission announced assistance in the dissemination of best practices on transparency on port charges. The Commission added that port charges could include incentives to promote the use of less polluting ships.



In an infringement procedure against Italy, the European Commission confirmed that differentiation of port dues according to the ships' origin/destination is against Regulation 4055/86. The announced best practices on transparency of port dues have however not yet been compiled, nor widely disseminated. In the meantime and in the context of the World Ports Climate Initiative, seaports have developed an Environmental Ship Index on their own. Based on this index less polluting ships may enjoy certain incentives in ports.

Transparency for port services provided in ports and concessions

If a Member State awards a concession for providing a service, the authorities of that Member State are bound to act transparently. The intention to award a concession has to be made public adequately, the procedure has to be done fairly and on a non-discriminatory basis, and it must be ready for inspection at any time. According to its Ports Policy Communication, the European Commission considers this procedure also to be obligatory in case of the award of port sites for providing services in the field of cargo handling. In agreement with their development policy and commercial strategies, port authorities are allowed to set up selection criteria. The European obligations only apply when the working of the internal market is under jeopardy. The duration of the concession should not limit free competition, but has to be long enough as to give the opportunity to the investor to earn his investment back with a reasonable margin. Renewing a concession is considered a new concession. The European Commission feels that more explanation of the already existing rules is needed in the field of employees' rights when the concession passes on to another company.

The European Commission confirmed in its Communication that the principle of freedom of establishment is also valid for technical-nautical services (pilotage, towage, mooring). Lawful monopolies for technical-nautical services are only justifiable if they are necessary and proportional for providing the relevant service. In those cases a transparent procedure should be implemented for the selection of the service provider. Exclusive rights may not be extended for excessive periods of time.



On 21 December 2011, the European Commission proposed a procurement package, which consisted of an amendment of Directives 2004/18/EC and 2004/17/EC and a new Directive proposal on the award of concession contracts (EPP-006 en EPP-007). The scope of this new Directive contains the entire market, including Activities relating to the exploitation of a geographical area for the purpose of the provision of airports and maritime or inland ports or other terminal facilities to carriers by air, sea or inland waterway. Now that the proposal has been introduced, Council and Parliament have to decide on it. By September 2012, the first reading procedure had not been finished yet. However, by then it became clear that the proposed Concessions Directive does not intend to include the leasing of sites. In order to achieve a level playing field, it is important that both private land lease and public domain contracts are excluded. Amendments in this sense were tabled. Independent from the process on the Directive, the Commission nevertheless sent on 21 June 2012 a reasoned opinion to Lithuania for maintaining a priority right for cargo-handling operators renewing their port land lease contract upon its expiry. The Commission asked Lithuania to abolish the priority right for leasing public port land. This under-

lines the fact that, regardless of the scope of the concessions Directive, the issuing of port land to terminal operators is subject to Treaty rules.

Guidelines on the application of European environmental law to port development

When expanding the capacity of ports, deepening maritime access routes and/or improving hinterland connections, it is important to take account of European environmental laws. When executing big construction projects in ports, involved parties often remain in legal uncertainty about the implementation of the Habitats and Birds Directives. To remedy this uncertainty, the European Commission announced to publish guidelines on the application of European environmental laws in relation to port development. In 2011, two documents were published: (a) the Commission staff working document integrating biodiversity and nature protection into port development' and (b) Guidelines on the implementation of the Birds and Habitats Directives in estuaries and coastal zones with particular attention to port development and dredging (EPP-004).

Together, these documents form the so-called Estuary Guidance. The European Sea Port Organisation (ESPO) made crucial contributions to the creation of this guidance. Although the Estuary Guidance is a Staff Working Document, which means the text is legally non-binding, it represents the official position of the Commission. It is especially interesting for those authorities who are responsible for the implementation of the European ecological legislation (Birds and Habitats Directives, Natura 2000).

The general outline of the guidance can be summarised as follows: ensure that you have an integrated approach, take measures in advance, assume the 'building with nature' concept, do not apply the precautionary principle too stringently and keep space for the development of economic activities. ('yes, if' approach instead of 'no, unless')

Moreover, rules on port reception facilities for ship-generated waste and cargo residues are being improved and measures are taken to reduce air, water and soil pollution in and around ports. Directive 2000/59/EC on port reception facilities for ship-generated waste and cargo residues is being reviewed (see chapter 34).

Modernisation of the port sector

The European Commission intended to take action to modernise the operations of the port sector. New systems, developed for port safety and security, such as SafeSeaNet, AIS (Automatic Identification System), LRIT (Long-range Identification and Tracking), coupled with modern telecommunication systems will become mandatory in the near future. These systems can improve the relationship between ship and shore (see chapter 10). The port sector in general will gain from these developments. In 2010, the European Commission organised a consultation on an 'e-maritime' policy. Such a policy would dramatically simplify administrative formalities in ports. Moreover, the European Commission announced that it would financially support research on how to modernise port infrastructure and port operations.

Dialogue between ports and cities

Ports and cities are mutually dependent. The relation between both has to be guided by a long-term vision and planning. The initiatives to improve the ports image should be left to the regions and Member States. However, the European Commission will examine how it can contribute to the improvement of the ports image and what can be done to have a better integration between ports and "their" adjacent city. In this context, the European Commission has declared 20 May as European Maritime Day.

Labour conditions

The European Commission has advocated dialogue between all the different stakeholders as the appropriate tool to create a better understanding between different parties. According to the Commission, such a stakeholders dialogue can even play a special and powerful role in the creation of more and better jobs in the port sector. Concretely, the European Commission announced that it would (a) encourage the creation of an European Social Sector Committee (b) propose a mutual recognised framework on the training of port labour (c) keep a vigilant eye on the proper application of work safety and healthcare rules in the port sector. It took until 2011 before a formal declaration of social partners to set up a European social dialogue came forward. The kick-off meeting still has to be organised. On the other two points, no specific initiatives were taken.

More recently, on 27 September 2012, the Commission sent a reasoned opinion to Spain for obliging cargo-handling companies in several Spanish ports to financially participate in the capital of private companies managing the provision of dockers and not to allow them to resort to the market to employ their staff, unless the workforce proposed by this private company is not suitable or not sufficient. Cargo-handling providers from other Member States wishing to establish themselves in Spain might be discouraged from doing so because of the barrier this provision raises on the market for cargo-handling services. This is the second stage in the infringement procedure. If Spain fails to react satisfactorily, the Commission may refer the matter to the EU Court of Justice.

Resolution of the European Parliament

In 2008, the European Parliament issued an own-initiative resolution on the Commission's Ports Policy Communication. In general terms, the Parliament supported the objectives and approach of the Communication (EPP-005).

Review of the 2007 Communication and possible future measures

On 8 September 2011, European Commissioner responsible for Transport, Siim Kallas announced a review of the current policy framework for ports, to improve the competitive edge of European seaports and to release their growth potential. Aim is to focus on reduction of administrative burdens, improve transparency of port finance and further liberalise of the port service market. The review is based on a number of studies, including a major business survey that was held among port stakeholders in summer 2012, and a specific assessment of dock labour regimes. A major stakeholder conference was held on 25-26 September 2012 in Brussels where preliminary results of these studies were presented. Specific workshops were held on concessions, TEN-T, administrative facilitation, port services and port performance. The conference was not conclusive. Although the first results of the business survey indicated that 70 to 80% of stakeholders do not see any major challenges for port services in Europe, it is unlikely that this means that the Commission will take no action in this field. A particular reason for coming forward with a legislative proposal is the lack of a solid legal basis to act case-by-case against violations of the freedom to provide services that is

guaranteed through the Treaty. It is argued that for maritime transport and aviation, secondary legislation would be needed. A second round of consultation is planned for autumn 2012, wherein the Commission will clarify its objectives and outline the policy options at hand. The outcome of the review is expected for spring 2013 and will in any case consist of a new Ports Policy Communication, possibly accompanied by one or more specific (legislative) proposals and/or instruments. The Commission however refuses to refer to a 'thirds ports package'.

The pending review in any case does not prevent the Commission from pursuing individual cases. Reference is made to the decision on the prolongation of lease contracts in the port of Klaipėda and the Spanish port labour case, which were both mentioned above. Both cases are however based on the freedom of establishment, not on freedom to provide services, which may be a further indication that secondary legislation in this field may be unavoidable.

Some relevant documents

- *EPP-008: Results of the 2012 business survey on port services (PWC/NEA)*
- *EPP-007: Commission staff working document. Impact assessment of the initiative on concessions accompanying the document "Proposal for a Directive of the European Parliament and the Council on the award of concession contracts"*
- *EPP-006: Proposal for a Directive of the European Parliament and the Council on the award of concession contracts*
- *EPP-005: European Parliament resolution on 4 September 2008 on European ports policy*
- *EPP-004: Guidance Document. The implementation of the Birds and Habitats Directives in the estuaries and coastal zones with particular attention to port development and dredging (European Commission)*
- *EPP-003: Accompanying document to Communication on a*

European Ports Policy - Full Impact Assessment (European Commission)

- *EPP-002: Accompanying document to Communication on a European Ports Policy - Summary Impact Assessment (European Commission)*
- *EPP-001: Communication on a European Ports Policy (European Commission)*

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6 LPA

Logistics Package

On 18 October 2007, the European Commission published a Communication on the EU's freight transport agenda: Boosting the efficiency, integration and sustainability of freight in Europe (LPA-001 and LPA-002). To guarantee the effectiveness and the sustainable growth of the freight sector, the European Commission addressed the following issues:

- The negative impact of congestion costs, freight time and fuel consumption in some parts of the European transport system;
- The contribution of the freight sector to the EU goals on climate change and the reduction of air and noise annoyance;
- The dependence of the freight sector on fossil fuels, which are mainly imported;
- The improvement of safety and security of transport;
- The difficulties of the transport and logistics sector to attract qualified personnel.

The Logistics Package became redundant in 2011 with the publication of the new Transport Policy White Paper (see chapter 7, WHP), as both are dealing with roughly the same themes. The Logistics Package was nevertheless important as initiator for a series of policy initiatives, such as:

- A communication on a rail network giving priority to freight, see chapter 9 (RAI).



- A communication on a European Ports Policy, including a vision in order to represent European ports as essential hubs in the European transport system, to help them attract new investments, to create a stable dialogue between stakeholders and to improve the ports image, see chapter 5 (EPP).
- A Commission staff working document on Motorways of the Sea, see chapter 15 (MOS).

Some relevant documents

- *LPA-002: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Communication and action plan with a view to establishing a European maritime transport space without barriers*
- *LPA-001: Communication from the Commission. The EU's freight transport agenda: Boosting the efficiency, integration and sustainability of freight transport in Europe*

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7 WHP

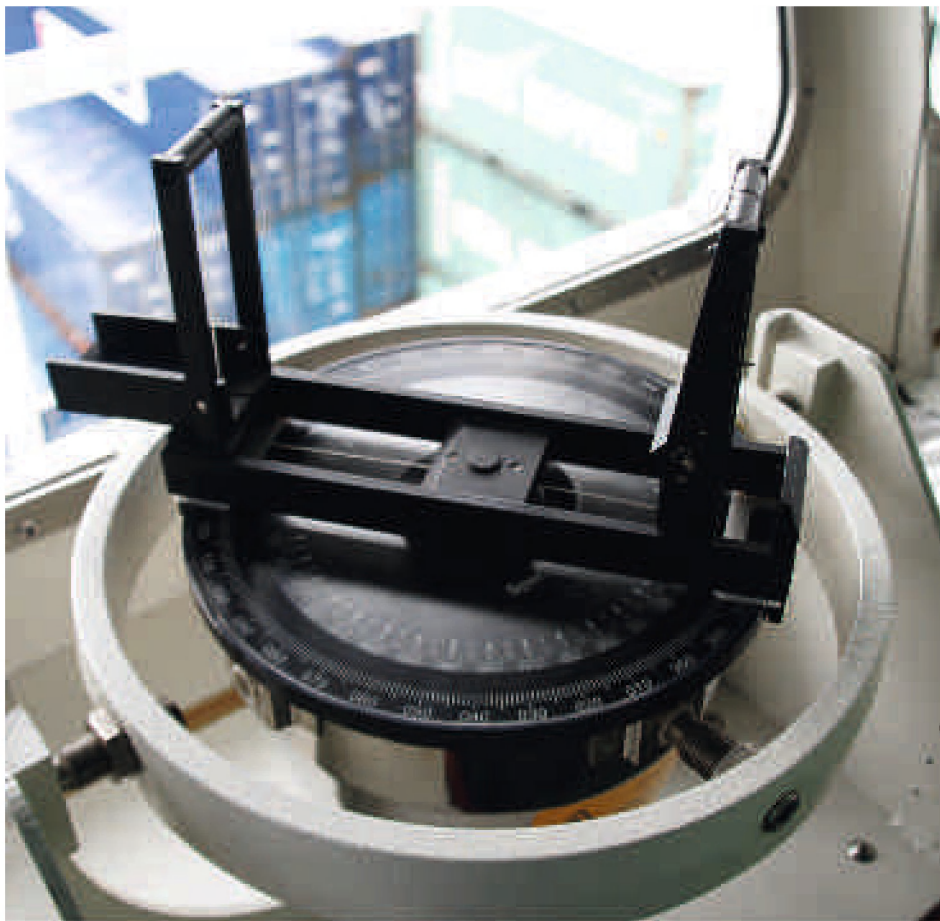
White Paper - Roadmap to a Single European Transport Area

On 28 March 2011, the European Commission presented its White Paper²: Roadmap to a Single European Transport Area - Towards a competitive and resource efficient transport system. It contains an ambitious plan which aims at expanding mobility and at drastically reducing CO₂-emissions by 2050 (WHP-001 and WHP-002 for the underlying working document).

2 The new White Paper replaces the 2001 White Paper « White Paper on European transport policy for 2010: time to decide » (September 2001). The then ambitions of the European Commission concerning transport were (1) the opening up of the internal market (2) the guarantee of a sustainable development of transport (3) realisation of big networks (4) reinforcement of the maritime safety (5) successful extension of the Community and (6) development of concrete international cooperation.

Roadmap

The White Paper is accompanied by a Road Map from the European Commission. This is not subject to the decision-making process of the European Parliament and Council of Ministers. Every time the Commission proposes new regulations it will turn back to the White Paper and will take account of considerations already made. In the meantime, the European Parliament adopted a resolution on the White Paper. When the European Commission proposes new regulations in accordance with the White Paper, it will also have to take into account the European Parliament's position.



Limiting mobility is not an option

The White Paper wants to achieve a competitive transport sector which increases mobility and decreases emissions. The White Paper argues that resolving the climate change problem by only limiting mobility is not correct. Competition between transport systems is vital for the competitiveness of Europe in the world, for economic growth, for full employment and for the quality of every-day-life of EU citizens.

The White Paper argues that there is no need to restrict mobility no more than leaving things as they are. The dependency of the transport system on oil can be broken without sacrificing its efficiency or mobility.

Goals

The White Paper sets out a number of goals that have to be achieved by 2050. These are to cut emissions from aviation with 50%, from shipping with 40 to 50% and from road with 70 to 80%. At the same time, an increase of 50% in passenger travel is expected and an increase of 80% in freight. Europe will therefore have to focus on multimodality and will have to create conditions for a modal shift.

To realise these policy objectives, investments will be needed in new transport infrastructure. The Commission believes that this will have to be done differently than in the past, when Member States spent 5% of their GDP annually. In recent years, this percentage has dropped significantly and the economic crisis prevented states to raise spending to the old levels. In addition to the investment efforts of Member States, internalising the external costs and a call on private capital via bonds could solve the financial issue.

The White Paper lists 40 measures to achieve the overall goals.

Some relevant documents

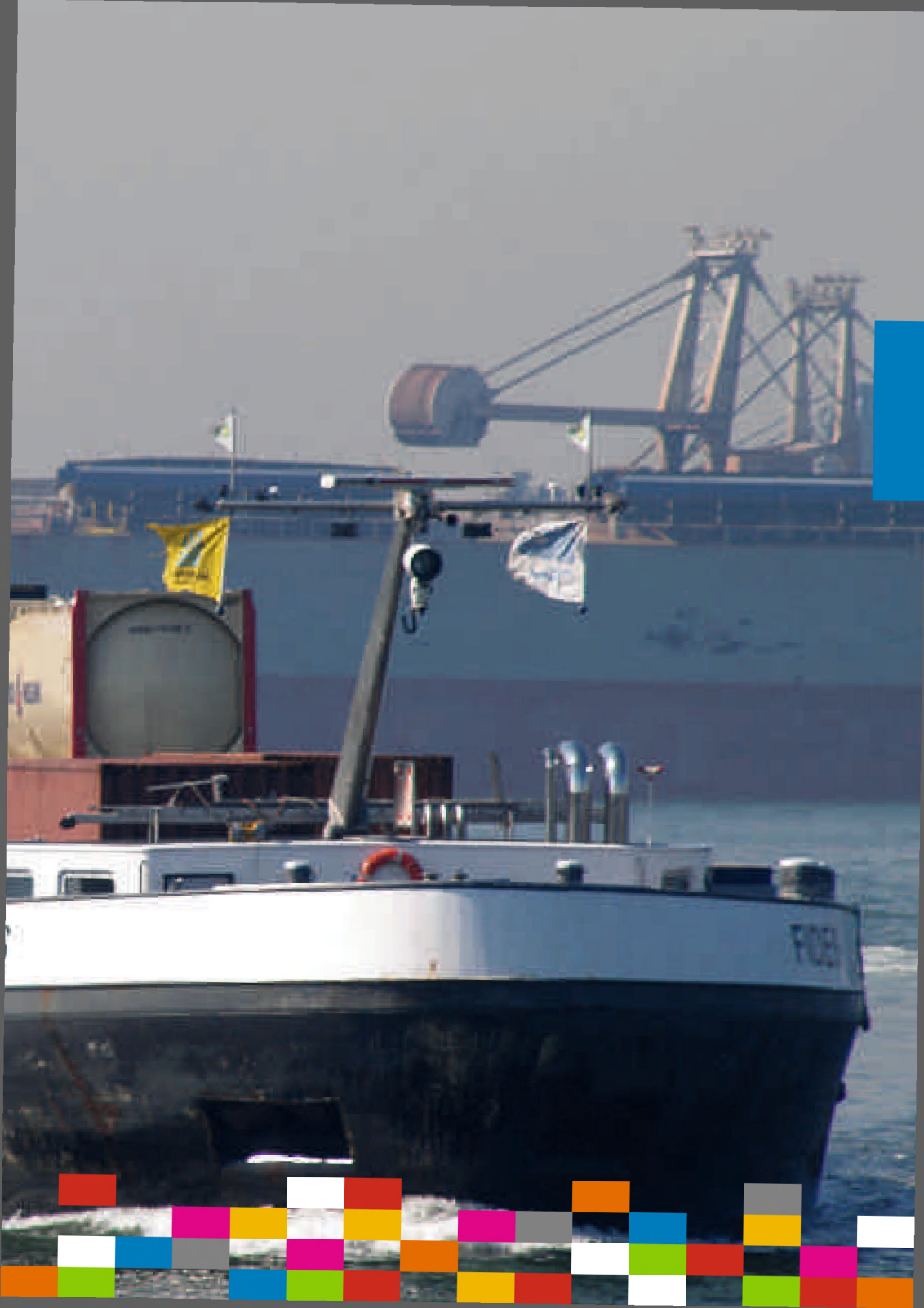
- *WHP-002: Commission working document accompanying the White Paper - Roadmap to a Single European Transport Area - Towards a competitive and resource efficient transport system*

- *WHP-001: White Paper - Roadmap to a Single Transport Area
- Towards a competitive and resource efficient transport
system (European Commission)*

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Hinterland connections

8	TRW	Technical requirements for Inland Waterway Vessels	1982 ■ 1997 ■ 2006 →
9	RAI	Railways	1991 ■ 2004 ■ 2011 →
10	SSS	Short Sea Shipping	1995 ■ 2002 ■ 2010 →
11	TEN	Trans-European Networks	1996 ■ 2003 ■ 2011 →
12	HGV	Eurovignette, charging of Heavy Goods Vehicles	1999 ■ 2011 →
13	IMT	Intermodal Transport	2000 ■ 2001 →
14	ILU	Intermodal Loading Units	2003 ■ 2009 ↓
15	MOS	Motorways of the Sea	2004 →
16	RIS	River Information Services on Inland Waterways	2005 ■ 2007 →
17	IWW	Inland Waterways / NAIADES	2006 ■ 2008 →
18	TDG	Directive on Transport of Dangerous Goods	2008 →
19	LHV	Ecocombi's - Longer and Heavier Vehicles	2011 →



Technical Requirements for Inland Waterway Vessels

On 9 December 1997, the European Commission introduced a new Directive from the Council to alter Directive 82/714/EEC (TRW-001) of 4 October 1982 on laying down technical requirements for inland waterway vessels. With this proposal, the European Commission aims at bringing the community technical requirements in agreement with the advanced standards of the navigation on the Rhine. The Commission's ultimate goal is the creation of a single common standard for the entire European Inland waterway network. The goal of these technical requirements was to promote good building practices and to make sure the ships' stability is in line with their specific function. Thus for example, the hull should be strong enough as to withstand all forces that are put on it. In the same way all water intakes and outlets have to be engineered in such a way that uncontrolled water intake is impossible.

Through this proposal, the Commission strived for a Community Certificate for inland waterway vessels, which would be an equivalent to the Rhine navigation certificate. The creation of this legal equivalence implies an amendment of the Mannheim Convention: the complementary protocol No. 7, which entered into force on 1 December 2004. On 14 July 2004, an updated version of the Directive was published and the process could continue. On 12 December 2006, the decision-making process was completed with the approval of the European Parliament and the Commission (TRW-002).

Some relevant documents

- *TRW-002: Directive of the European Parliament and the Council of 12 December 2006 laying down technical requirements for inland waterway vessels and repealing Council Directive 82/714/EEC*
- *TRW-001: Council Directive of 4 October 1982 laying down technical requirements for inland waterway vessels*

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Railways

The first Railway package

In 1991, the Directive on the development of Community railways (RAI-001) enabled the first liberalisation of some aspects of rail transport. Railway companies were urged to engage in a more competitive market situation. Key elements in the Directive were:

- Sound financial management;
- Control over and reduction of the indebtedness;
- Reform of railway companies to independent enterprises;
- Access to the rail network of other member states;
- Distinction between the operation and the use of the rail infrastructure.

In 1995 and 2001, Directives were adopted that further developed the liberalisation process.

White Paper

On 30 July 1996, the Commission published a White Paper on a strategy to revitalise the community's railways (COM/96/0421 FINAL RAI-002). The White Paper highlights financial issues of railways and the shrinking of their market. Railways were seen to have difficulty adapting to market evolution and to the changing needs of railway users. However, rail had a number of interesting characteristics which could make it a key European transport mode in the future. The White Paper aimed at developing a strategy to revitalise railways in the Community and in particular at making railway companies financially sound again. Moreover, the White Paper aimed to open up the public service market. The White Paper did not only want to integrate the national railway systems, but also to safeguard social aspects.

The second Railway package

In January 2002, the Commission proposed a new set of measures for speeding up the integration of the railway system, the so-called second railway package (RAI-003). Notwithstanding the first railway package, the situation of the railway sector remained alarming. Therefore, the Commission made more concrete proposals to speed up the revival of railway traffic in Europe. This new package contained five new proposals for action to complete

the structure that was already provided by earlier community rules. These five actions are:

- Elaborating a common safety concept;
- Ascertaining the interoperability principles;
- Setting up an effective control unit: the European agency for safety and interoperability for railway (the European Railway Agency);
- More profound and faster liberalisation of the railway transport market;
- Joining the Intergovernmental Organisation for International Carriage by Rail (OTIF)

Two years later, in 2004, Parliament and Council reached agreement on the second railway package, which consists of:

- A Directive on the safety of Community railways, amending Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and levying of charges for the use of railway infrastructure and safety certification (RAI-004 and RAI-005);
- A Directive amending Council Directive 96/48/EC on the interoperability of the trans-European high-speed rail systems and Directive 2001/16/EC on the interoperability of the trans-European conventional rail system (RAI-006);
- A Regulation establishing a European Railway Agency (RAI-007);
- A Directive amending Council Directive 91/440/EEC on the development of the community's railways (Directive on market access) (RAI-008).

The third railway package

The European Commission published the third railway package in 2004. In this package, attention was given to the following issues:

- Providing a high quality service;
- Making the freight market railway transport more easily accessible;
- Making freight railway transport more environmentally friendly;
- The gradual development of a rail network for freight transport;
- The gradual opening up of the market for rail passenger transport services;

■ The improvement of rail traveller's rights.

These measures were elaborated not only in a Communication from the European Commission, but also in two Directive proposals and two Regulation proposals. All of that became known as the third railway package. The package in its entirety passed the co-decision procedure and was finally agreed on 22 February 2007 (RAI-009).

Railway system for competitive freight transport

As an element of the EU's freight agenda, the European Commission published on 18 October 2007 a Communication Towards a rail network giving priority to freight.

In the Communication, the Commission claims that the development of cross-boundary corridors can help to create a European rail network for freight transport. This would complement the already existing ERTMS (European Rail Traffic Management System), where most of the attention is given to the improvement of efficiency. The goal of the corridors is to provide, on the entire length of the corridor, the right infrastructure capacity and to combine this with



the implementation of the ERMTS. Indication and implementation demand efforts from infrastructure managers, national authorities and the European Union. The Commission further announced to review the first railway package, by introducing stronger rules.

On 11 December 2008, the European Commission proceeded with a concrete Regulation proposal that would shape the European rail network for competitive freight transport, based on a number of corridors. For each of these freight corridors, the proposed approach is based on a regular market analysis and a regular consultation with the users, the establishment of a working plan with the measures necessary to fulfil their requirements and to guarantee the compliance of the provisions of the proposal for regulation. The infrastructure and terminal managers will be responsible for the execution, with support and guidance from Member States, which are involved in the set-up of freight corridors. In summer 2010, Parliament and Council reached a compromise on the proposal (RAI-010), which aimed to optimise the use of railway network and to ease freight transport by rail on the main international connections. Member States have to determine international corridors for freight transport, which will form a network as to develop a competitive freight transport. The regulation contains a list of nine initial corridors which should start in the next three to five years following the adoption of the Regulation.

In 2013 these initial corridors will be:

- Zeebrugge-Antwerp/Rotterdam-Duisburg- Milan-Genoa corridor;
- Rotterdam-Antwerp-Luxembourg-Metz-Dijon-Lyon/(Basel) corridor;
- Sines-Lisbon/eixões Madrid-Medina del Campo/Bilbao/San Sebastian-Irun-Bordeaux-Paris/Le Havre/MetzSines-Elvas/Algeciras corridor;
- Almeria-Valencia/Madrid-Zaragoza/Barcelona-Marseille-Lyon-Turin-Milan-Verona-Padua/Venice-Trieste/Koper-Ljubljana-Budapest-Zahony (Hungarian-Ukraine Border) corridor;
- Bucharest-Constata-Prague-Vienna/Bratislava-Budapest-Vidin-Sofia-Thessaloniki-Athens corridor;
- Prague-Horní Lideč-Zilina-Kosice-Cierna and Tisou (Slovak-Ukraine border) corridor.

And those in 2015 will be:

- Stockholm-Malmö-Copenhagen-Hamburg-Innsbruck-Verona-Palermo corridor;
- Gdynia-Katowice-Ostrava/Zilina-Bratislava/Vienna/Klagenfurt-Udine-Venice/ Trieste/ Bologna/Ravenna/Graz-Maribor-Ljubljana-Koper/Trieste corridor;
- Bremmerhaven/Rotterdam/Antwerp-Aachen/Berlin-Warsaw-Terespol (Poland-Belarus border)-Kaunas corridor.

The corridors must at least run through three Member States (or at least 2 Member States if the distance between the rail terminals is more than 500 km) and have to correspond to the TEN-T Network, the corridors of the European Railway Traffic Management System (ERTMS) and the corridors established by RailNetEurope. Each corridor has an executive committee (set up by the concerned Member State) and a management committee (set up by the concerned infrastructure management). The management committee is responsible for the organisation of the corridor, provides a one-stop shop management and handles capacity requests (slots). Moreover, the management committee sets up an advisory group made up of railway undertakings interested in using of the freight corridor.

The recast of the first railway package and preparation of a fourth package

In its Resolution of 17 June 2010, the European Parliament deplored that a majority of Member States (22 out of 25 with a national railway network) had not yet implemented the three Directives of the first railway package. Parliament urged the Commission to introduce a proposal for a revision of the first railway package by September 2010. This proposal would be aimed at the independence of infrastructure managers, the insufficient financial means and the authorities of the regulating bodies.

On 17 September 2010, the European Commission published a proposal for a Directive establishing a Single European Railway Area (RAI-011). The proposal contained the recasting of the first railway package, which would contribute to the development of a European railway market and the promotion of the attractiveness and the increase of the market share of rail transport. Thanks to this proposals, the rules are simplified (by bundling three Directives into one new Directive), clarified (implementation by Member

States will be easier) and updated (by scrapping outdated provisions and by adding new provisions that connect better to present market conditions). The proposed recasting of the first railway package involves (a) a correct financing of rail infrastructure and appropriate levies for the use of it, (b) the right conditions for competition in the railway market and (c) the necessary organisational reform to safeguard proper monitoring of the market.

Parliament and Council reached a political agreement on the recast proposal in July 2012 (RAI-012). The recast finally is not as ambitious as Parliament had wished, in particular with regard to the unbundling of infrastructure management and operations. The European Commission has however announced that it will prepare a fourth railway package early 2013, which will pick up the issue of unbundling in the institutional context of the rail market. The package will further deal with the removal of legal barriers to access domestic passenger markets, interoperability and safety.

Some relevant documents

- *RAI-012: Opinion of the Commission pursuant to Article 297(7)(c) of the Treaty on the functioning of the European Union, on the European Parliament's amendment[s] to the Council's position regarding the proposal for a Directive of the European Parliament and of the Council establishing a single European railway area (Recast)*
- *RAI-011: Proposal for a Directive of the European Parliament and of the Council establishing a single European railway area (European Commission) - if possible, replace this with the final text of the Directive or the text of the political agreement*
- *RAI-010: Regulation (EU) No 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight*
- *RAI-009: Directive 2007/58/EC of the European Parliament and of the Council of 23 October 2007 amending Council Directive 91/440/EEC on the development of the Community's*

railways and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure

- RAI-008: Directive 2001/12/EC of the European Parliament and of the Council of 26 February 2001 amending Council Directive 91/440/EEC on the development of the Community's railways
- RAI-007: Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European Railway Agency (Agency Regulation)
- RAI-006: Directive 2004/50/EC of the European Parliament and of the Council of 29 April 2001 amending Council Directive 96/48/EC on the interoperability of the trans-European high-speed rail system and Directive 2001/16/EC of the European Parliament and of the Council on the interoperability of the trans-European conventional rail system
- RAI-005: Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification
- RAI-004: Directive 2001/13/EC of the European Parliament and of the Council of 26 February 2001 amending Council Directive 95/18/EC on the licensing of railway undertakings
- RAI-003: Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/440/EEC on the development of the Community's railways (European Commission)
- RAI-002: White Paper. A strategy for revitalising the Community's railways
- RAI-001: Consolidated text. Council Directive of 29 July 1991 on the development of the Community's railways (91/440/EEC)

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Short Sea Shipping

The European Commission defines Short Sea Shipping as follows:

“Short Sea Shipping means the movement of cargo and passengers by sea between ports situated in geographical Europe or between those ports and ports situated in non-European countries having a coastline on the enclosed seas bordering Europe.”

Several Communications since 1995

The European Commission published several communications on Short Sea Shipping, the first one dating back from 1995. A second communication followed in 1999 (SSS-001). Later there also came a Directive on reporting facilities (2001 and 2010), a communication on a European maritime transport space without barriers (2007) and a pilot project called ‘Blue Belt’ (see further).

The overall aim of these initiatives is the promotion of Short Sea Shipping by proposals to improve its efficiency. In the Communication of 1999, a study compared different administrative documents and procedures between different Member States. On the basis of the conclusions of this study, a set of voluntary measures were proposed that would contribute to more uniformity.

The programme proposed at that time by the Commission focused on 14 actions which should have enlarged the role of Short Sea Shipping in Europe. These involved legal actions (e.g. a Directive on notification formalities for ships arriving at and/or sailing from a port in a Member State of the Community, IMO-FAL), technical actions (e.g. mutual adaptation of the national application of computerisation of the Community’s Customs procedures) and operational action such as the promotion of the image of Short Sea Shipping as a valid transport alternative.

A European maritime space without barriers

As part of its 2007 Logistics Package (see chapter 6), the Commission produced a staff working document on a European Maritime Transport Space without Barriers. To simplify administrative and reporting procedures, a consultation process started, helping for Short Sea Shipping to take full advantage of the internal market and to come on par with the other transport modes. This resulted

in a Communication on a European Maritime transport space without barriers that was published on 21 January 2009.

The concept of the European Maritime Transport Space without Barriers (EMTSB) aims to improve the effectiveness of the intra-European maritime transport by abolishing administrative burdens for coastal shipping. This concept is just one element in a broader approach which also contains support of new short sea shipping lines through the Marco Polo programme, transparency of port dues, efficient rail and inland waterway connections to hinterlands, reduction of environment burdens by ports and ships, Motorways of the Sea and other TEN-T projects.

The European Commission sees the unnecessary complex, sometimes superfluous and not harmonised regulations and administrative procedures in the different Member States as bottlenecks. This is especially the case in the area of customs and taxation, border control, trade, statistics, environment and waste, public and environmental health and safety and security. Other bottlenecks concerning Short Sea Shipping are: transport of dangerous goods, linguistic issues, compulsory pilotage, not universally accepted electronic manifests and the limited availability of a single window approach to handle all the formalities.

In order to resolve these bottlenecks, the EMTSB action plan contained short and long term measures for the European Commission to take in 2010 and 2013 respectively. Moreover, the Commission issued recommendations to Member States and to local stakeholders (see chapter 15 on Motorways of the Sea and more specifically MOS-005).

Reporting formalities for ships

In 2001, the European Commission proposed a Directive on reporting formalities for ships arriving in and/or sailing from ports of the Member States of the Union (SSS-002). The aim of this Directive is to standardise reporting formalities, by using the uniform IMO-FAL forms, thus promoting Short Sea Shipping. On 18 February 2002, Council and Parliament approved the Directive (SSS-003). Member States had to implement the necessary legal and administrative provisions no later than 9 September 2003.



On 20 October 2010, the IMO-FAL Directive was replaced by a new Directive on reporting formalities for all ships calling at EU ports (SSS-004). As from 1 June 2015, all vessels registered under the flag of an EU Member State must deliver certain information not later than 24 hours before arrival. Before this date, Member States have to set up single window information points where ships can deliver their information and where the information can be linked to the information used in other shipping systems, such as Safe Sea Net, E-customs and others. The Directive does not prescribe a certain language, but calls on the Member States to facilitate communication in maritime transport.

Blue Belt

In the context of EMTSB, the pilot project Blue Belt was set up. The purpose of Blue Belt is to maximise facilitation of the intra-EU carriage of goods by ship. Blue Belt is a European Cooperation project of DG Move and DG Taxud. The implementation lies with EMSA and national customs authorities. The organisation contains a steering committee (EMSA, Taxud, Pt, Fi, Be, It, UK, Cy and NI)

and a correspondence group (ECSA, WSC, individual shipping companies and ESPO).

There was much interest to participate in Blue Belt. In total there were 251 ships registered which participated in the first phase of the pilot project. The list of ships was made available to customs authorities of Member States and contained the name of the ship, IMO-registration, information on shipping route and the ports of call. The list was regularly updated and complemented in the course of the project. Maritime customs authorities were being informed automatically of the arrival of a 'Blue Ship' in their port. This information made it possible for customs to assess the risk and spare bona fide ships from unnecessary customs control.

In the first phase of the project (which ran from 2 May 2011 until 30 June 2011), the customs authorities received a report from EMSA two hours before the ship arrival. These reports contained information on the ship, captain, number of crew members, port of sailing, the voyage and ISPS data (the ten previous ports of call). Besides, they received a graphic image of the route sailed by the ship. This image forms an important element for the customs to assess risk.

In the second phase (which ran from 1 July 2011 until 3 November 2011) it was also possible that:

- Customs could, on request, get access to the graphic interface of Blue Belt. This made it possible to get information on other ships in the vicinity of the Blue Ship.
- Customs got information on the behaviour of the ship, e.g. an unforeseen visit to another port (e.g. in North Africa), changing speeds, deviating routes (sailing in cycles, lying still).
- AIS-Satellite information became available as back-up information.

The pilot project was finalised with an evaluation aimed at technologies, safety and security and facilitation aspects. The Commission is planning to issue a specific Communication on Blue Belt and the accompanying Blue Lanes in ports in spring 2013, together with the new Communication on ports (see chapter 5). The Communication is expected to include an action plan, but the concrete measures envisaged were not clear yet at the time of closing this overview.

Some relevant documents

- SSS-004: Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving and/or departing from ports of the Member States and repealing Directive 2002/6/EC (European Parliament and the Council)
- SSS-003: Directive 2002/6/EC of the European Parliament and of the Council of 18 February 2002 on reporting formalities for ships arriving in and/or departing from ports of the Member States of the Community (European Parliament and the Council)
- SSS-002: Communication from the Commission - programme for the Promotion of Short Sea Shipping (European Commission)
- SSS-001: Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions - The Development of Short Sea Shipping in Europe: A Dynamic Alternative in a Sustainable Transport Chain (European Commission)

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11 | TEN

Trans-European Networks

Following a decision of the Parliament and the Council, the foundations for the Trans-European Networks (TEN-001) were laid in 1996. Trans-European Transport Networks (TEN-T) consist of the infrastructure (roads, railways, waterways, ports, airports, means of navigation, transshipment installations, pipelines) and the services which are necessary to make use of the infrastructure.

Priority is given to the:

- Construction of connections, necessary to facilitate transport;
- Optimisation of the efficiency of the existing infrastructure;
- Gradual achievement of interoperability of network components;
- Integration of environmental aspects into the development of the network.

Revision 2001-2003: a limited number of prioritised projects

In the period 2001-2003, the Trans-European Transport Networks were revised (TEN-002 and TEN-003). This can be seen as a response to the new goals set out by the White Paper on European Transport Policy of 2001. In compliance with the recommendations of the 'Van Miert' group of 2003, the European Commission drew up a list of 30 priority projects which had to be started before 2010 (TEN-004). The total estimated cost was 225 billion euros. To speed up the realisation of the border routes, all 30 projects have been declared projects of European Interest. The list consists of:

1. Railway line Berlin-Verona/Milan-Bologna-Napoli-Messina-Palermo
2. High speed line Paris-Brussels/Brussels-Cologne-Amsterdam-London
3. High speed line Southwest-Europe
4. High speed line East (Paris-Strasbourg/Luxembourg)
5. Classic railway line for combined transport (the Betuwe line 2007)
6. Railway line Lyon-Trieste-Divaca/Koper-Divaca-Ljubljana-Budapest-Ukraine border
7. Highway connection Igoumenista/Patra-Athens-Sofia-Budapest
8. Multimodal axis Portugal/Spain-rest of Europe
9. Railway line Cork-Dublin-Belfast-Stanraer (2001)
10. Malpensa airport of Milan (completed in 2001)
11. Fixed connection across the Öresund (completed in 2001)
12. Nordic Triangle rail/road
13. Road connection Ireland/UK/Benelux (2010)
14. Railway line "west coast main line" (2007)
15. Global satellite navigation system GALILEO (2008)
16. Railway axis for freight transport through the Pyrenees Sines/Algeciras-Madrid-Paris
17. Railway Paris Strasbourg-Stuttgart-Vienna-Bratislava
18. River connection Rhine/Meuse-Main-Danube
19. Interoperability of the high speed lines on the Iberian Peninsula
20. Railway between Germany and Denmark by the Fehmarn Belt
21. Motorway of the Sea: the Baltic, the Atlantic Arc, South Eastern Europe, the eastern part of the Mediterranean
22. Railway Athens-Sofia-Budapest-Vienna-Prague-Nuremberg/Dresden



23. Railway Gdansk-Warsaw-Brno/Bratislava-Vienna
24. Railway Lyon/Geneva-Basel-Duisbourg-Rotterdam-Antwerp
25. Highway connection Gdansk-Brno/Bratislava-Vienna
26. Railway/road Ireland/United Kingdom/Continental Europe
27. Railway "Rail Baltica" Warsaw-Kaunas-Riga-Tallinn-Helsinki
28. Railway "Eurocaprail" Brussels-Luxembourg-Strasbourg
29. Railway from the intermodal corridor of the Ionic Sea/Adriatic Sea
30. River connection Seine-Scheldt

Policy evaluation of the guidelines: Green Paper TEN-T

In accordance with legal requirements, the guidelines for the Trans-European Transport Network had to be evaluated before 2010. In this context, the European Commission published a Green Paper on 4 February 2009: Towards a better integrated Trans-European Transport Network at the service of the common Transport Policy (TEN-005). In this Green Paper the European

Commission concluded that, because of the expansion of the Union, technical developments and the increase in transport demand, the present TEN-T policy lost its relevance and that the construction cost of the network was too high.

The scenarios recommended by the Commission include (1) maintaining the comprehensive network, to be financed by Member States but with a core network based on the existing priority projects, and with connections which bring optimal benefits, (2) maintaining the current approach (of which the financing cannot be guaranteed) and (3) leaving the comprehensive networks and maintaining the priority projects, which will be completed and linked if necessary.

New proposals introduce a Core Network and a Comprehensive Network

The Green Paper initiated a consultation process which resulted in a Regulation proposal that set out a new set of guidelines (TEN-006). In addition, a Regulation proposal was issued that arranged the financial dimension, the so-called 'Connecting Europe Facility' (CEF) (TEN-007).

The proposed guidelines define a 'dual layer' approach, with a core network and a comprehensive network.

Infrastructure on the comprehensive network and especially on the core network has to comply with specific technical standards. There are also some legal obligations. The comprehensive network has to be completed by 2050. Every European citizen must be able to reach the comprehensive network within 30 minutes. It is the responsibility of the Member State to build this network. Co-financing from the EU for projects on the comprehensive network is only possible in a limited extend (for instance in the context of regional funds and promotion of innovation).

The Core Network has to be completed by 2030 and revolves around ten so-called 'core network corridors':

- Baltic-Adriatic Corridor
- Warsaw-Berlin-Amsterdam/Rotterdam-Felixstowe-Midlands
- Mediterranean corridor

- Hamburg-Rostock-Burgas/TR border-Piraeus-Lefkosia
- Helsinki-Valetta
- Genoa-Rotterdam
- Lisbon-Strasbourg
- Dublin-London-Paris-Brussels
- Amsterdam-Basel/Lyon-Marseille
- Strasbourg-Danube corridor

Each corridor needs to have multiple transport modes, to cross at least 3 Member States and two borders. Corridor platforms will be set up to bring all the parties and Member States together.

The core network connects, amongst others, 83 important European ports with the rail-, water- and road-network. It consists of 15,000 km adjusted railway lines and counts 35 important cross border projects in order to get rid of certain bottlenecks. Each country gets access to the core network. Most of the TEN-T working budget under the CEF is expected to go to the co-financing of projects on the core network. In general the EU contributes to 20% of the total investment cost. For certain intelligent transport systems, such as the European Rail Traffic Management System (ERTMS), the contribution of the EU can amount up to 50% (even for study projects). All projects in the core network get priority for EU co-financing. During the period 2014-2020, priority will be given to cross border projects with the highest added value for the EU.

The Connecting Europe Facility proposal earmarks 50 billion euros for the period 2014-2020, to be divided as follows: telecom (9.2 billion euros), energy (9.1 billion euros) and transport (31.7 billion euros including 10 billion from the Cohesion Fund).

Phasing

The period 2012-2013 corresponds to the pilot phase of the new TEN-T policy, in which 5 to 10 projects will be realised. For this phase the EU made 230 million euros available. It is expected that this will generate investments by Member States and by the private sector for a total amount of 4.6 billion euros. The pilot phase is being executed by the European Investment Bank (EIB).

Experience shows that for each million euros invested by the EU, Member States invest 5 million euros and the private sector another

20 million euros. For the period 2014-2020, the Commission is proposing an EU investment of 31.7 billion euros. It is expected that the total investments for that period will amount to about 500 billion euros, of which 250 billion euros for the core network.

Both the proposal for the TEN-T guidelines and the Connecting Europe Facility take the form of a Regulation. At the time this overview was completed, both proposals were still going through the co-decision procedure in Parliament and Council. European Transport Ministers already reached agreement on the TEN-T guidelines in spring and Parliament is expected to adopt its position in first reading early 2013. This could lead to a final adoption within the first half of 2013. For the Connecting Europe Facility, things may be more difficult, as the debate is linked to the discussion on the overall budget of the European Union for 2014-2020. Whereas Parliament is expected to be positive on the proposed allocation of 31.7 billion euros, several Member States are sceptical, if not downright opposed. A special EU summit is planned for 22-23 November 2012 to agree on the overall amount of the budget and the allocation to the different posts, including the TEN-T.

Some relevant documents

- *TEN-007: Commission Proposal for a regulation of the European Parliament and of the Council on the Connecting Europe Facility*
- *TEN-006: Commission Proposal for a regulation of the European Parliament and of the Council on Union guidelines for the development of the Trans-European Transport Network*
- *TEN-005: Green paper TEN-T: A policy review. Towards a better integrated Trans-European Transport Network at the service of the common transport policy (European Commission)*
- *TEN-004: Report on the Trans-European Transport Network (High Level Group)*
- *TEN-003: Communication from the Commission. A European Initiative for Growth - Investing in Networks and Knowledge*

for Growth and Jobs. Final Report to the European Council

- *TEN-002: Commission Proposal for a decision of the European Parliament and of the Council amending Decision No 1692/96/EC on Community guidelines for the development of the trans-European transport network*
- *TEN-001: Decision No 1693/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the trans-European transport Network*

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12 | HGV

Eurovignette, charging of Heavy Goods Vehicles

Directive 1999/62/EC (HGV-001), also known as the Eurovignette Directive, stipulates that Member States are allowed to implement tolls and user charges if certain conditions are met. For instance, tolls can only be used for highways, for other forms of motorways which are comparable with multiple lane roads, for the use of bridges, tunnels and mountain passes. Member States without a network of motorways or two-lane roads (with separate lanes) are allowed to use tolls and user charges for the roads which are technically in the highest road category.

In 2011 the original Directive was replaced by Directive 2011/76/EU (HGV-002) on the carriage of goods by road.

Under the new framework, Member States can apply higher prices for tolls during rush hours. Income generated by tolls have to be used to improve the road infrastructure, 15% of which goes to the Trans-European Infrastructure Network (TEN-T). Member States are encouraged to do so, but they are not obliged to. The aim of the new Directive is to enable Member States to charge heavy goods vehicles for air pollution and noise pollution, which is based on the 'polluter pays' principle.



See also road transport-related: chapter 19 on the Ecocombi's (Long and Heavy Trucks, LHT).

Some relevant documents

- *HGV-002: Directive 2011/76/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures*
- *HGV-001: Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures*

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Intermodal Transport

In 1997, the European Commission published a Communication on Intermodality and intermodal freight transport in the European Union - a system's approach to freight transport - Strategies and actions to enhance efficiency, services and sustainability (IMT-001). Council and Parliament responded to that Communication (in 2000 and 2001) in the form of Resolutions (IMT-002 and IMT-003).

The European Commission believes that intermodality and multimodal transport are key elements in the development of a more rational transport system. Intermodality means that there is an integration of the different modes of transport; not only on operational level, but also on management level. Linking the different modes of transport in one chain, by taking into account the unit in which the load is being transported (without splitting up, altering or raising any other limitation to the cargo unit).

In their Resolutions, Council and Parliament pleaded for a continuation of the policy to promote intermodal freight transport by taking appropriate actions. The Resolutions summed up a series of actions, such as the extension of the PACT-programme (which became the Marco-Polo programme), the adaptation of the framework programmes in the advantage of intermodal transport, the establishing of the satellite navigation system GALILEO, the promotion of short sea shipping, and so on.

With the arrival of the 2011 White Paper 'Roadmap to a Single European Transport Area' (see chapter 7), the Communication of 1997 and the responding Resolutions of the Parliament and the Council on the improvement of transport became somewhat outdated. However, no change was brought to the Commission's positive attitude on intermodal transport.

Some relevant documents

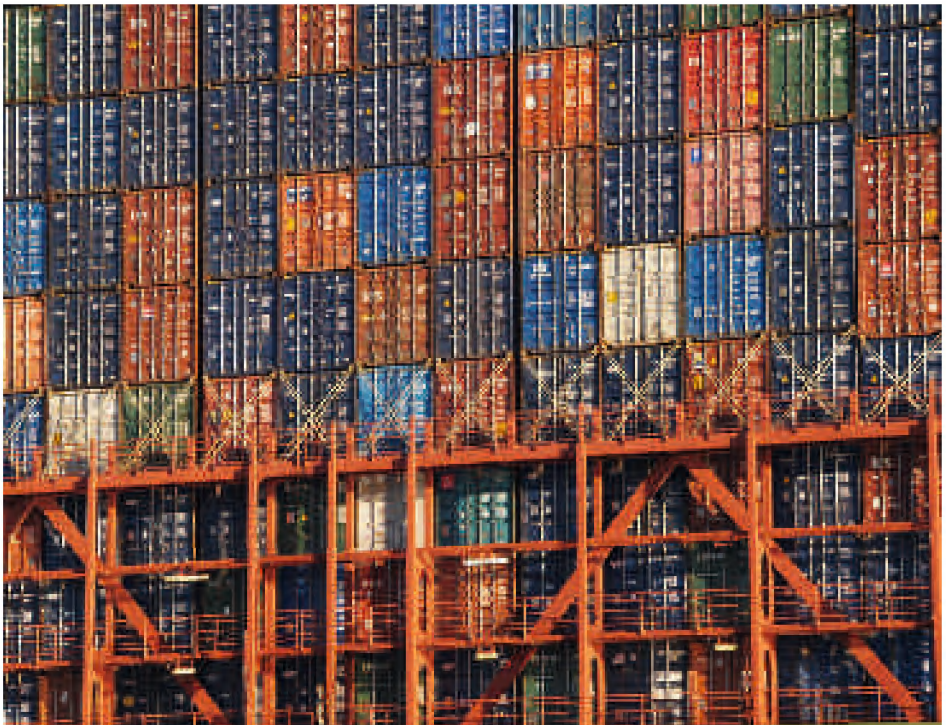
- *IMT-003: European Parliament resolution on the communication from the Commission to the European Parliament, the Council and the Economic and Social Committee on the progress of the implementation of the action programme on*

the communication on intermodality and intermodal freight transport in the European Union (COM(1997) 243 of 29 May 1997) (COM(1999) 519 - C5-0084/2000 - 2000/2052(COS))

- *IMT-002: Council resolution of 14 February 2000 on the promotion of intermodality freight transport in the European Union (2000/C 56/01)*
- *IMT-001: Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions. Intermodality and intermodal freight transport in the European Union, a system approach to freight transport, strategies and actions to enhance efficiency, services and sustainability*

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IMT



Intermodal Loading Units

In 2003, the European Commission made a proposal concerning the introduction of Intermodal Loading Units (ILU-001).

According to the Commission, differences in design, size and technical characteristics of loading units makes intermodal transport very complex. These differences would constitute a barrier for interoperability. Loading and unloading is slowed down because every box has to be individually identified to determine what technique should be used. The lifting equipment often needs to be specially adapted or tuned, which brings unnecessary costs. Most of the time swap-bodies are only used in road- and rail transport, whereas containers are mainly used in sea and inland navigation.

Therefore, the European Commission made a proposal in 2003 for an Optimal Intermodal Loading Unit, the UECL. The Intermodal Loading Unit has the main advantages of the container (sturdy and stackable), but also of the swap-body (larger capacity). These European units can be used by the four modes of transport (rail, road, sea and inland navigation). Transhipment between the different modes would therefore become simpler.



The proposal contained requests on safety, security, interoperability, loading and unloading, sturdiness, coding and identification of the units. The proposal was amended several times during the decision-making procedure, but in the end no consensus was found. Most of the sector stakeholders strongly opposed to the proposal. On 25 March 2009, the European Commission therefore revoked it (ILU-002).

Some relevant documents

- *ILU-002: Withdrawal of obsolete Commission proposals (2009/C 71:07) (OJ C 71/07 dd. 25.03.2009)*
- *ILU-001: Communication from the Commission. Programme for the Promotion of Short Sea Shipping - Proposal for a Directive of the European Parliament and of the Council on Intermodal Loading Units*

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15 MOS

Motorways of the Sea

Promoting intermodal transport

The promotion of intermodal transport has been the driving force of the European Transport Policy for a long time. The strong motives are: processing the ever growing goods flow, dealing with road congestion, improving road safety, environmental quality and sustainability. Promoting intermodal transport implies strengthening the role of railways, inland waterways and Short Sea Shipping in the global transport system. Promoting Short Sea Shipping can be done in three ways: (a) improving the infrastructure, which is the topic of this chapter; (b) smoothing out administrative bottlenecks (see chapter 10: 'Short Sea Shipping'); (c) supporting the providers of intermodal transport services (including short sea shippers) (see chapter 46: 'Marco Polo').

The concept 'Motorways of the Sea' (MOS) was first introduced in the White Paper on European Transport Policy of 2001. The White Paper proposed to design logistic corridors based on Short Sea



Shipping, which would be similar to the motorways on land. Thanks to extra capacity, these corridors would enable maritime transport to compete with road and to contribute to the realisation of the 'modal shift' objective.

MOS as part of TEN-T

Article 12a of the current TEN-T guidelines (i.e. those applicable until the 2011 proposals were adopted) further developed the concept of MOS concerning the establishment of the infrastructure network (MOS-001). This article maintains that the Trans-European Network of maritime motorways contains facilities (port services) and infrastructure in which at least two ports from two different Member States are involved. Besides infrastructure and facilities, it is possible that activities with a wider added value are also taken into account. These activities for instance include dredging, icebreaking and information systems.

Four initial corridors were identified as project of European interest:

- Motorway of the Baltic sea (linking the Baltic Sea Member States with Member States in Central and Western Europe, including the route through the North Sea/Baltic Sea Canal);
- Motorway of the Sea of Western Europe (leading from Portugal and Spain via the Atlantic arc to the North Sea and the Irish Sea);
- Motorway of the Sea of South-East Europe (connecting the Adriatic Sea to the Ionian Sea and the Eastern Mediterranean, including Cyprus);
- Motorway of the Sea of South-West Europe (Western Mediterranean, connecting Spain, France, Italy and including Malta and linking with the Motorway of the Sea of South-West Europe and including links to the Black Sea).

These corridors are part of priority project n° 21 under the currently applicable TEN-T guidelines.

The European Commission published a Vademecum which should ease the understanding of article 12a, especially of the procedural aspects (MOS-002). There is a strong emphasis on fast and high quality services in the ports.

Infrastructure and providing services

While the Marco Polo programme focuses on the support of new services and modal shift (among others Short Sea Shipping), the TEN-T actions focus more on infrastructure and on the actual provision of services. Both programmes were seen as complementary and it was possible to apply both for one project, maybe even supplemented with additional aid from regional funds.

The High Level Group concerning the extension of the TEN-T network to EU neighbouring countries has contributed to the further development of the concept. The High Level Group wanted to improve connections between the EU and its neighbouring countries through a series of priority measures. Five major transnational axis's were defined, one of them being MOS. The report proposed to extend the already existing corridors. The corridors within the transnational axis's MOS would therefore have to be connected with the neighbouring countries in the Baltic Sea, the Barentz Sea, the Atlantic Ocean, the Black Sea, the Caspian Sea and the Red Sea through the Suez Canal. In all EU neighbouring countries, at least one port per maritime sector had to be

selected as a MOS port. From this port, it would be possible to set up a MOS connection to the EU.

In preparation of the ministerial conference on the MOS in Ljubljana on 24 January 2006, the European Commission published a brochure to further clarify the MOS concept (MOS-003).

As part of the 2007 Logistics Package, there was also a working document concerning Motorways of the Sea. In this document, the progress of the project achievements was presented and suggestions were made for improving quality.

Annual call for presenting MOS projects

The EU has an annual call for proposals for MOS projects. A budget of 310 million euros (indicative) was available for the period 2009-2013.

Year	Available budget (million euros)
2009	85
2010	100
2011	50
2012	25

The TEN-T guidelines which are currently applicable clearly state that the maximum support for an infrastructure project is 20% (30% for transnational projects) and 50% for research projects.

On 10 February 2010, the European Commission set up an assistance and information service for finance resources for MOS (www.mos-helpdesk.eu). During the same year, 14 proposals for MOS projects were introduced, nine of which were approved: three study/pilot projects (33 million euros) and six projects (52 million euros).

See also: map of Motorways of the Sea (MOS-004).

Future of the MOS concept

In the proposal for the new TEN-T guidelines (see chapter 11), Motorways of the Sea are represented as the maritime dimension of the TEN-T. The proposed guidelines indicate that Motorways of the Sea have to consist of short sea routes, ports, associated maritime infrastructure and equipment as well as facilities enabling

short-sea shipping or sea-river services between at least two ports, including hinterland connections, in at least two different Member States. Concretely, Motorways of the Sea should include:

- Maritime links between maritime ports of the comprehensive network;
- Port facilities, information and communication technologies (ICT), such as electronic logistics management systems, safety and security and administrative and customs procedures in at least one Member State;
- Infrastructure for direct land and sea access.

Meanwhile, voices in Parliament and Council are asking for a more thorough revision of the Motorways of the Sea concept. Concerns related to potential distortion of competition with existing short sea services have been recurring frequently.

Some relevant documents

- MOS-005: *Commission Proposal for a Directive of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States of the Community and repealing Directive 2002/6/EC*
- MOS-004: *Map of the Motorways of the Sea (European Commission)*
- MOS-003: *Motorways of the Sea - Shifting freight off Europe's roads (European Commission)*
- MOS-002: *Motorways of the Sea Art. 12a of the TEN-T Guidelines - A Vademecum issued in conjunction with the call for proposals TEN-T 2005 (European Commission)*
- MOS-001: *Decision No 884/2004/EC of the European Parliament and of the Council amending Decision No 1692/96/EC on Community guidelines for the development of the trans-European transport network*

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River Information Services on Inland Waterways

In European countries with inland waterways, attempts were made to develop a system to steer and guide navigation. In this context, the European Commission took the initiative to harmonise these attempts with the aim to enable the waterway user to perceive the European waterway network as one unified entity.

On 30 September 2005, Directive 2005/44/EC of Parliament and Council of 7 September 2005 on harmonised River Information Services (RIS) on inland waterways in the community was published in the Official Journal of the European Union (RIS-001). The Directive was implemented by 20 October 2007.

The Directive sets up a framework for the implementation and use of the harmonised RIS. This framework aims at supporting inland waterways by:

- Improving safety, security, effectiveness and environmental friendliness of this transport mode;
- Facilitating interfaces with other transport modes.

In order to support RIS and the interoperability, the European Commission was asked to take a certain number of measures within a determined timeline and through the comitology procedure (articles 5 and 11 of the Directive). These measures are:

- Technical guidelines for the planning, implementation and operational use of the services (RIS guidelines);
- Technical specifications for the Electronic Chart Display and Information System for inland navigation, the so-called inland ECDIS;
- Technical specifications for electronic ship reporting;
- Technical specifications for vessel tracking and tracing systems;
- Technical specifications for the compatibility of the equipment necessary for the use of RIS.

The RIS Directive makes it mandatory to set up an inland waterway information service and applies to all Member State inland waterways of class IV and above, which are linked by a waterway of class



IV or above to a waterway of class IV or above of another Member State, including the ports on such waterways. A Member State is free to apply the Directive to inland waterways outside this scope.

At the moment, the European Commission has not yet published all technical guidelines and specifications. Those that have already been published have the form of Commission Regulations, which means that they are directly applicable in Member States. Transposing the guidelines and specifications in national law is therefore not necessary.

The technical guidelines were published through Regulations 414/2007, 415/2007 and 416/2007, see RIS-002, RIS-003 and RIS-004.

Some relevant documents

- *RIS-004: Commission regulation No 416/2007 of 22 March 2007 concerning the technical specifications for Notices to Skippers as referred to in Article 5 of Directive 2005/44/EC of the European Parliament and of the Council on harmon-*

ised river information services (RIS) on inland waterways in the Community

- *RIS-003: Commission regulation (EC) No 415/2007 of 13 March 2007 concerning the technical specifications for vessel tracking and tracing systems referred to in Article 5 of Directive 2005/44/EC of the European Parliament and of the Council on harmonised river information services (RIS) on inland waterways in the Community*
- *RIS-002: Commission regulation (EC) No 414/2007 of 13 March 2007 concerning the technical guidelines for the planning, implementation and operational use of river information services (RIS) referred to in Article 5 of Directive 2005/44/EC of the European Parliament and of the Council on harmonised river information services (RIS) on inland waterways in the Community*
- *RIS-001: Directive 2005/44/EC of the European Parliament and of the Council of 7 September 2005 on harmonised river information services (RIS) of inland waterways in the Community*

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17 IWW

Inland Waterways / NAIADES

On 17 January 2006, the European Commission published a Communication on the promotion of inland waterways transport "NAIADES" - an Integrated European Action Programme for inland waterway transport. "NAIADES" stands for Navigation And Inland waterway Action and Development in Europe (IWW-001). Member States and the industry have been closely involved in the creation of the action plan.

In order to allow inland navigation to reach its full potential and to contribute fully to the European goals in transport, certain preconditions need to be improved. In its Communication, the Commission presented an integrated action plan with five strategic domains:

- Market
- Fleet
- Jobs and skills
- Image
- Infrastructure

In addition, some proposals were made to modernise the organisational structure, which is essential for the execution of the plan. On the basis of the action plan, the Commission could propose new legislative proposals and introduce policy measures, if necessary. The period runs from 2006 until 2013. In accordance with the principle of subsidiarity, the action plan is applicable to all levels of responsibility within inland navigation: the industry, including social partners; Member States, which are responsible for the infrastructure network; the European Commission and other



institutions. In cooperation with all these actors, the Commission follows up the execution of the action plan. The first progress report was published on 5 December 2007 (IWW-002).

In addition to NAIADES, the European Commission launched the PLATINA project on 1 October 2008. This project gives technical and organisational support on the implementation of NAIADES. Furthermore, the PLATINA project sets up an information service of inland navigation and an inland navigation education network, and gives also gives technical support to the further development of the River Information Services (see also: http://ec.europa.eu/transport/inland/promotion/promotion_en.htm).

As already mentioned, the programme ends in 2013. In the 2011 Transport Policy White Paper (see chapter 7, WHP), there were already ideas for a successor of the present NAIADES programme. Together with the feedback from stakeholders following various rounds of consultation on the policy measures to tackle the challenges in the inland navigation sector, the Commission issued a staff working document on 31 May 2012. This document defines a number of orientations and stepping stones towards the adoption of NAIADES II. The Commission is expected to produce this programme in 2013. The focus would be mainly on:

- Infrastructure: planned actions for inland navigation under the existing programmes and under the forthcoming instruments of the next multi-annual financial framework for the period 2014-2020
- Market: assistance for integrating inland waterways into the multimodal logistic chains
- Fleet: measures to reduce emissions
- Jobs and skills: actions aimed at increasing harmonisation of standards for professional training and certification
- Information exchange and sharing: review of the River Information Services policy.

Some relevant documents

- *IWW-002: Communication from the Commission. First progress report on the implementation of the NAIADES Action Programme for the promotion of inland waterway transport*

■ IWW-001: Communication from the Commission on the promotion of inland waterway transport "NAIADES". An Integrated European Action Programme for Inland Waterway Transport

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18 TDG

Directive on Transport of Dangerous Goods

IWW
TDG

On 22 December 2006, the European Commission proposed a Directive concerning the intra-European transport of dangerous goods. The aim of this proposal was not only to simplify the already existing legislation, by bringing together all the existing directives concerning the transport of dangerous goods by road and rail (Directives 94/95, 96/49, 96/35, 2000/18), but also to extend the scope of legislation to the domain of inland navigation, which was not yet included.



The total volume of dangerous goods transported in the European Union is circa 110 billion ton/km per year (58% by road, 25% by rail and 17% by inland waterways). The volume of transport by road and inland waterways increases, whereas it declines by rail transport. Even if the transport of dangerous goods by inland waterway has the smallest percentage, the European Commission highlights the fact that an accident with dangerous goods through inland waterway can have major consequences.

In spring 2008, the European Parliament agreed in second reading with the Transport Council on a common position. On 24 September 2008, the Directive from the Parliament and the Council on the inland transport of dangerous goods was adopted (TDG-001).

Some relevant documents

- *TDG-001: Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods*

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19 LHV

Ecocombi's - Longer and Heavier Vehicles

In some EU Member States, the use of Longer Heavier Vehicles is already permitted. In other Member States tests and trials are being prepared or being done. In the EU there is a debate whether or not to allow the transboundary transport of the so-called Ecocombi's, vehicles with a total length of 25.25 meter and a total weight of 40 tons. At the moment, the maximum allowed length is 17.85 meter. In reply to written questions of the European Parliament, the Commission answered as follows:

"Directive 96/53/EC on weights and dimensions (LHV-001) and its revision (LHV-002) allows Member States to authorise the circulation for national transport on their own territories of vehicle combinations exceeding the maximum dimensions laid out in the

Directive, such as the modular concept. This possibility is used by certain Member States for national transport operations, whereas others have conducted trials of it. The Directive already allows individual Member States to carry out trials of vehicles or vehicle combinations incorporating new technologies or new concepts in local transport operations for a limited period on national territory. The Commission carried out studies to assess the environmental, economic and social impact of vehicles such as the modular concept (LHV-003), with the objective of obtaining a neutral analysis of their impact (currently available studies show widely varying and disputed impacts). In view of a possible limited review of the Directive as announced in the White Paper on the Future of Transport to adapt it to technological progress, e.g. in the fields of vehicles' aerodynamics, the Commission announced to launch a stakeholders' consultation."

The revision of the weights and dimensions Directive may lead to a new proposal early 2013, which could bring clarification on the cross-border use of Ecocombi's.

Some relevant documents

- *LHV-003: Road Freight Transport Vademecum 2010 Report: Market trends and structure of the road haulage sector in the EU in 2010 (European Parliament and the Council)*
- *LHV-002: Directive 2002/7/EC of the European Parliament and of the Council of 18 February 2002 amending Council Directive 96/53/EC laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic*
- *LHV-001: Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national traffic and the maximum authorised weights in international traffic*

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Safety on seas and in seaports

20	PSC	Port State Control	1995 ■ 2002 ■ 2005 →
21	BUL	Safe Loading and Unloading of Bulk Carriers	2001 →
22	LTS	Level of Training of Seafarers	2001 ■ 2003 ■ 2005 →
23	ERI	Maritime Safety: Erika I, II and III	2001 ■ 2004 ■ 2006 →
24	DHT	Double Hull Tankers	2002 ■ 2007 →
25	MON	Monitoring Directive	2002 ■ 2009 →
26	STE	Security of Terminals	2004 →
27	SPO	Security of Ports	2005 →
28	STC	Securing the Transport Chain	2006 ■ 2010 ↓
29	BSD	Green Paper on Better Ship Dismantling	2007 ■ 2008 →



Port State Control

Directive of 1995 - Criteria of the Port State

A main part of the pollution problem of the sea and coastal areas could be solved if the international norms on safety and environmental protection were applied more effectively. This was also the intention of Directive 95/21 from the Council on 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards of ship safety, pollution prevention and shipboard living and working conditions (port state control) (PSC-001). The purpose of this Directive was to help drastically to reduce substandard shipping in the waters under the jurisdiction of Member States. It appeared that a great number of countries did not take any measures to make sure that ships flying their flag meet the international standards. The solution was to implement the criteria of the Port State (Port State Control).

Amendment by Directive 2002

Directive 95/21 was amended several times. Directive 2002/84/EC (PSC-002) caused a far reaching change. It refers to the Committee on Safe Seas and the prevention of pollution from ships (COSS).

In essence, the major changes were the following:

- All ships over 15 years old which have been arrested more than two times in the last two years and which fly the flag of a State mentioned on the Paris MoU black list of flag states will be banned. The Commission publishes a ban list every six months.
- Systematic inspection in Member States' ports of ships with a particularly high 'priority factor'. The 'priority factor' is determined on the basis of different criteria: the age of the ship, the flag, previous cases of arrest, and so on. Preference must be given to the inspection to the high priority ships.
- Optional measures of the existing Directives concerning ship types with a higher standard risk (oil tankers, gas transporters and ships to transport chemicals and bulk carriers) are mandatory. These ships are subject to a compulsory detailed inspection when they enter a port of the European Union, within a certain period of time. To ease the preparation of the inspection, ships have the obligation to provide information in advance.

- These measures are toughened for oil tankers. Tankers are subject to a series of detailed inspections starting when they are 15 years old, instead of 20 or 25 years as stated in the existing Directive. Furthermore, the inspectors should inspect at least one of the ballast tanks, so that they get an idea of how the ship is being damaged by corrosion.
- Inspectors have to check the EQUASIS-database to obtain more information about the ship, especially about its quality. In their report, they have to describe the nature of the inspections carried out. This will avoid the same inspection in another port.
- The Port State and the classification societies are informed of the results of the inspections, so that they can act quickly when the condition of the ship is deteriorating.
- The information list published after the inspection and arrest shall also mention the name of the shipper/charterer.
- Member States have to give precise feedback to the Commission so that it can determine the effectiveness of the Directive and can have a better control on its compliance. An insufficient implementation of the Directive will be better detected and will lead to an action of infringement based on article 258 TFEU (action for non-compliance).

Consolidation 2009

In November 2005, the European Commission announced legal measures in the context of the Erika III package (see chapter 23) to improve safety at sea. One of those measures concerned the revision of the Directive on Port State Control. By repeated amendments, Directive 95/21 concerning Port State Control became extremely complex and it was necessary to rewrite it in a clearer and more readable way. With the new proposal, the European Commission intended to establish a consolidated text.

On 23 April 2009, Directive 2009/16/EC from Parliament and Council of 23 April 2009 concerning Port State Control (recast) was approved by Parliament and Council (PSC-003). Member States set the common goal of inspecting all ships calling at an EU port, with a frequency depending on their risk profile. Ships representing a higher risk are subject to an inspection every six months, ships with an average risk every 12 months and ships with a lower risk every three years, whichever EU port they call at.

Maritime Labour Convention

On 23 March 2012, the European Commission proposed a new amendment to Directive 2009/16/EC on Port State Control. The purpose of this proposal is to bring European Union legislation in line with the enforcement and compliance rules foreseen by Title 5 of the Maritime Labour Convention and thereby to integrate rules regarding the responsibilities of Port States into EU law. Currently, both Council and Parliament are considering this proposal. In Parliament a vote is scheduled for the February 2013 plenary session.

Related international agreements

On 1 July 1982, the Paris Memorandum of Understanding on Port State Control (Paris MoU) entered into force - originally signed by 14 European states. Since then, the MoU has been amended several times due to changes in new legislation of the International Maritime Organization (IMO) and the EU Directives in the field of maritime safety. In September 2012, 27 nations were member of the Paris MoU, including Canada, Norway and the Russian federation (see also: www.parismou.org).

Some relevant documents

- PSC-003: Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (Recast)
- PSC-002: Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002 amending the Directives on maritime safety and the prevention of pollution from ships
- PSC-001: Council Directive 95/21/EC of 19 June 1995 on port State control of shipping

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Safe Loading and Unloading of Bulk Carriers

On 4 December 2001, Parliament and Council approved Directive 2001/96/EC establishing harmonised requirements and procedures for the safe loading and unloading of bulk carriers (BUL-001). The provisions entered into force on 1 March 2004.

The purpose of this Directive is to enhance the safety of bulk carriers calling at terminals in the Member States in order to load or unload solid bulk cargoes, by reducing the risks of excessive stresses and physical damage to the ship's structure during loading or unloading, through the establishment of harmonised suitability requirements for those ships and terminals; and



harmonised procedures for cooperation and communication between those ships and terminals.

In view of the high number of shipping accidents involving bulk carriers with an associated loss of human lives, further measures should be taken to enhance safety in maritime transport within the framework of the common transport policy. The loading and unloading of solid bulk cargoes, if not properly conducted, can indeed contribute to the loss of bulk carriers, either by over-stressing the ship's structure or by mechanically damaging its structural members in the cargo holds.

Through a number of Assembly Resolutions, the International Maritime Organisation (IMO) adopted recommendations on the safety of bulk carriers addressing ship/port interface issues in general and loading and unloading operations in particular. In December 1997, the IMO adopted the Assembly Resolution A.862(20), a Code of Practice for the Safe Loading and Unloading of Bulk Carriers, which is also called the Bulk, Loading, Unloading Code or BLU Code (BUL-002 + 002bis). The IMO urged contracting governments to implement this Code at the earliest possible opportunity and to inform IMO of any non-compliances.

In the Resolution, the IMO further urged contracting governments, where solid bulk cargo loading and unloading terminals are located, to introduce laws so that a number of key principles necessary for the implementation of this Code could be enforced.

Directive 2001/96/EC gives a number of requirements for bulk carriers. Not only bulk carriers calling at terminals, but also the terminals themselves should be suitable for loading and unloading solid bulk carriers. A terminal representative has to be appointed and a quality management system has to be implemented in accordance with the ISO 9000 standard or equivalent. The masters of the bulk carriers have to receive an information booklet at the terminal for loading and unloading solid bulk cargoes.

The Directive determines that the principles concerning masters' and terminal's responsibilities apply as laid down in the BLU Code. There are procedures for before and during loading and unloading. Good cooperation and communication between the ship and the

terminal is essential. Member States have to submit an evaluation report on the implementation of the Directive, so that the Commission can evaluate its application. Moreover, the terminals for solid bulk have to confirm to IMO that they have adopted codes and recommendations on ship/shore cooperation.

Some relevant documents

- *BUL-002 + 002bis: BLU-code - Ship/Shore Safety Checklist; Code of practice for the safe loading or unloading of dry bulk cargo carriers (International Maritime Organisation (IMO))*
- *BUL-001: Directive 2001/96/EC of the European Parliament and of the Council of 4 December 2001 establishing harmonised requirements and procedures for the safe loading and unloading of bulk carriers*

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BUL
LTS

22 LTS

Level of Training of Seafarers

In the Directive 2001/25/EC of the European Parliament and of the Council of 4 April 2001 on the minimum level of training of seafarers (LTS-001), the international Regulations of the STCW convention (Convention on Standards and Training, Certification and Watch keeping for Seafarers, 1978) were converted in EU law. The STCW Convention was drafted by the International Maritime Organisation (IMO) (for more information on the STCW convention see: www.imo.org). It sets out rules on competence levels, certificates, training requirements, quality standards, medical standards, use of simulators, communication on board, etc. with the aim of improving the safety of seafarers and the maritime safety in general.

On 17 November 2003, the Directive of 2001 was supplemented by a new Directive (LTS-002), adding a common system of recognition of certificates issued in third countries. These new arrangements made sure that training and certificates of third country seafarers, who work on EU vessels, comply with the international minimum requirements.



The Directive specifies that, for the recognition of diplomas of seafarers who are or are not citizens of a Member State, the provisions of Directives 89/48/EEC and 92/51/EEC on the recognition of professional education and training are applicable. A procedure is determined to identify seafarers' professional education, as to compare the followed training and the relevant qualification. If important differences are noticed, seafarers can ask for compensation measures. However, the paradox is that the procedure sets higher demands for seafarers than the STCW convention. Therefore, some seafarers with a qualification from a Member State can end up in a detrimental position in comparison to seafarers with a diploma received outside the European Union. A simplified procedure was necessary for the recognition of diplomas which are delivered according to the same minimum standards as in the Member States.

Directive 2005/45/EC of Parliament and Council of 7 September 2005 on the mutual recognition of seafarers certificates issued by Member States and amending Directive 2001/25/EC was approved on 7 September 2005 by Parliament and Council (LTS-003).

Some relevant documents

- *LTS-003: Directive 2005/45/EC of the European Parliament and of the Council of 7 September 2005 on the mutual recog-*

tion of seafarers' certificates issued by the Member States and amending Directive 2001/25/EC

- *LTS-002: Directive 2003/103/EC of the European Parliament and of the Council amending Directive 2001/25/EC on the minimum level of training of seafarers*
- *LTS-001: Directive 2001/25/EC of the European Parliament and of the Council of 4 April 2001 on the minimum level of training of seafarers*

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23 ERI

Maritime Safety: Erika I, II and III

LTS
ERI

Disaster at sea in 1999

In December 1999, the oil tanker 'Erika' broke in two 40 miles off the coast of Brittany (France). More than 10,000 tonnes of heavy fuel oil were spilt, thereby creating an ecological disaster. Pressure of public opinion prompted the European Commission to propose action at Community level. According to the Commission, this action was "designed to bring about a change in the prevailing mentality in the seaborne oil trade. More powerful incentives were needed in order to persuade carriers, charterers, classification societies and other key bodies to give a high profile to quality considerations. At the same time, the net should be tightened on those who strive for short-term personal financial gain at the expenses of safety and the marine environment." The Commission proposed a number of measures that could be taken immediately, as well as on a longer term, more complex measures which would be the subject of a second and third legislative package. The packages of these measures are known as Erika I, II and III.

Erika I

The Erika I package contained measures on port state control, classification societies and double-hull oil tankers:

- (1) Port State Control: Directive 2001/106/EC amending Directive 95/21, see chapter 20 'Port State Control' (PSC);
- (2) Classification societies: Directive 2001/105/EC amending Directive 94/57;
- (3) Double-hull oil tankers: regulation 417/2002 of 18 February 2002, see chapter 24 'Double hull tankers' (DHT).

Erika II

The Erika II package consists of measures on monitoring, controlling and setting up an information system, a fund to compensate victims of oil pollution and the creation of a Maritime Safety Agency:

- (1) Introduction of a Community monitoring, control and information system for maritime traffic: Directive 2002/59/EC of 27 June 2002, see Chapter 25 "Monitoring Directive" (MON);
- (2) Setting up a Compensation Fund for Oil Pollution in European Waters: Proposal 2000/0326 (COD) was approved by Parliament and Council on 5 November 2002, see ERI-002 and ERI-003;
- (3) Setting up an European Maritime Safety Agency: Regulation 1406/2002 of 27 June 2002.

Erika III

In January 2004, the European Commission announced a new package of legislative measures. The Commission Communication on the Erika III package was presented to Parliament and Council on 8 February 2006 (ERI-001). The third maritime safety package was adopted by the European Parliament on 11 March 2009. Most of the measures in the package took effect in late 2010.

The following themes can be found in the Erika III package:

- Port State control. See chapter 20, "Port State Control" (PSC).
- Liability. The Directive on civil liability and financial guarantees obliges Member States to require ships flying their flag to have insurance in place. Each ship has to be equal to the relevant maximum amount as laid down by the 1996 Convention on limitation of liability for maritime claims. Ships that cannot prove the existence of insurance will not have access to EU ports until the insurance issue is fixed.
- Compensation for damages of passengers. The harmonised text on compensation for passengers mentions that transport

companies have to pay a maximum of 2.587 euros for the loss of luggage and a maximum of 460.000 euros in case of physical injury or loss of life caused by fault or negligence. The



rules are implemented step-by-step for national as well as for transboundary traffic, and for ships of different size categories.

- Classification societies. EU rules on classification societies have to make sure that Member States fulfil their duties as flag states, in accordance with the IMO conventions on safety and prevention of pollution. Member States have to check if a ship meets the international requirements and the IMO conventions, before the ship is allowed to fly the flag of the Member State. Private organisations, which are appointed by the Member State to inspect the ships (classification societies), are also subject to strict general rules and norms. Member States will be allowed to hold the certificate in abeyance for classification societies which do not comply with the norms.
- Places of refuge for ships in need of assistance. According to the Directive on Vessel Traffic monitoring and information systems, Member States ought to designate a competent authority which can take any decision autonomously in case of emergency or danger. When deciding a place of refuge for a ship in distress, this authority should prevent losing time. Timing is indeed very important when it comes to human life, economic damage and/or environmental catastrophe. The authority is allowed to limit the movements of the ship in distress, to indicate a designated course to it, to place experts on board to assess the nature and the size of the damage, to deploy emergency personnel and to tow the ship if necessary.
- Investigating maritime accidents. Investigating the causes of maritime accidents will be done more often in accordance with stringent Community Directives. The investigations will not remain limited to the serious sea accidents. Every potential serious accident will be subject to a preliminary inquiry. On the basis of the preliminary inquiry, it will be decided whether a thorough investigation is necessary or not.

Some relevant documents

- *ERI-003: Regulation (EC) No 2009/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships*

- *ERI-002: Proposal for a European Parliament and Council regulation on the establishment of a fund for the compensation of oil pollution damage in European waters and related measures*
- *ERI-001: Communication from the Commission. Third package of legislative measures on maritime safety in the European Union*

24 DHT

Double Hull Tankers

The initiative to regulate the double-hull oil tankers fits in the frame of a series of measures taken by the Commission in reaction to the Erika oil disaster in December 1999.

Up to then, most oil tankers had a single hull design. In such vessels, oil in cargo tanks is separated from seawater only by a bottom and a side plate. Should this plate be damaged as a result of collision or stranding, the content of the cargo tanks risks spilling into the sea and causing severe pollution. An effective way of avoiding this risk is to surround the cargo tanks with a second internal plate at a sufficient distance from the external plate. This design, known as double hull, protects cargo tanks against damage and thus reduces the risk of pollution.

Following the Exxon Valdez accident in 1989, the United States (US), dissatisfied with the ineffectiveness of the international standards on the prevention of pollution from ships, adopted the 'Oil Pollution Act of 1990' (OPA '90). This unilateral act imposed double hull requirements on both new and existing oil tankers. For some vessels an age limit was installed and deadlines were conceived to ban single-hull tankers from US waters.

Faced with this unilateral measure on the part of the Americans, the International Maritime Organisation (IMO) had to take action and established double-hull standards in 1992 in the International Convention for the Prevention of Pollution from Ships (MARPOL). This convention requires all oil tankers with a deadweight tonnage (DWT) of 600 tonnes or more delivered as from July 1996 to be constructed with a double-hull or an equivalent design. There are



therefore no longer any single hull tankers of this size that have been constructed after this date. For single-hull tankers with a 20,000 DWT or more and delivered before 6 July 1996, the convention requires that they comply with the double-hull standards at the latest by the time they are 25 or 30 years old, depending on whether they have segregated ballast tanks or not.

Given that it is difficult to transform a single-hull oil tanker into a double-hull tanker, both the American system and the MARPOL Convention lead to a phasing-out of single-hull oil tankers. Nevertheless, the differences between the American system and the international system meant that single-hull oil tankers would be banned from US waters faster than anywhere else. As a

consequence, these ships would begin to operate in other parts of the world, including the European Union, and would increase the risk of pollution in the areas concerned.

Confronted with this situation, the European Commission believed it was necessary to make haste in replacing single-hull oil tankers by double-hull tankers or ships with equivalent safety norms.

On 27 March 2002, Regulation (EC) No. 417/2002 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers and repealing Council Regulation (EC) No. 2978/94 was published (DHT-001). Due to this Regulation, single-hull oil tankers were, in function of their category and age, banned from European ports, terminals and anchor. In 2015, single-hull oil tankers shall no longer be allowed.

In reaction to the oil disaster of the oil tanker "Prestige" in November 2002 off the coast of Galicia (Spain), the Commission wanted to improve the safety at sea and to prevent pollution from ships by speeding up the above mentioned actions. The Commission proposed to amend the existing Regulation 417/2002 in three areas:

- 1 Implementing a provision that would allow the transport of heavy and dangerous types of oil only if they are transported by double-hull tankers (after 4 April 2005);
- 2 Revising existing Regulations on banning certain tankers (speeding up the process);
- 3 Broadening the scope of the special rules of certification for tankers which concern the structural integrity of single-hull oil tankers over 15 years old.

These and other amendments were introduced thanks to different Regulations (DHT-002, DHT-003 and DHT-004). The last Regulation was due to amendments in the MARPOL convention.

On 27 March 2006, the European Commission proposed an even greater acceleration. This led, after all the classical procedures, to Regulation (EC) No 457/2007 amending Regulation (EC) No 417/2002 on the accelerated phasing-in of double-hull or equivalent design which was approved by the European Parliament and the Council on 25 April 2007 (DHT-005).

Some relevant documents

- *DHT-005: Regulation (EC) No 457/2007 of the European Parliament and of the Council of 25 April 2007 amending Regulation (EC) No 417/2002 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers*
- *DHT-004: Commission Regulation (EC) No 2172/2004 of 17 December 2004 amending Regulation (EC) No 417/2002 on the European Parliament and of the Council on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers*
- *DHT-003: Regulation (EC) No 1726/2003 of the European Parliament and of the Council of 22 July 2003 amending Regulation (EC) No 417/2002 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers*
- *DHT-002: Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships*
- *DHT-001: Regulation (EC) No 417/2002 of the European Parliament and of the Council of 18 February 2002 on the accelerated phasing-in of double hull or equivalent design requirements for single hull oil tankers and repealing Council Regulation (EC) No 2978/94*

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25 MON**Monitoring Directive**

The Directive establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC (MON-001) was formulated to improve safety and prevention of

pollution by ships. Member States had to make the necessary legal and administrative provisions to make sure that the Directive could come into effect on 5 February 2004.

Apart from some exceptions (war vessels, small fishing crafts, etc.), the Directive is applicable on all sea-going vessels over 300 tonnes. The most essential elements of the Directive are:

- The custom of notification on arrival becomes mandatory.
- Ships entering an area where the authorities use a system approved by the IMO have to give the information required by this system.
- Ships entering an area under the supervision of traffic control have to be equipped with an IMO approved routing system and have to use the services of traffic control. Member States have to make sure that these entities have enough personnel and the required technical means to fulfil their tasks.
- Every ship entering a port of the Union has to be equipped with a transponder (Automatic Identification) that complies with IMO-standards. It will be possible to identify the ship and follow its journey along the European coast. Member States have to equip their coast guard with an appropriate receiver.
- Every ship entering a port of the Union has to, in accordance with the Annex II timeline, be equipped with a voyage data recorder (black box).
- Certain data on ship and on cargo have to be notified to the port of departure in the Union. The Member States have to cooperate to make sure that their national information system can be connected to others and that it is interoperable.
- In case of extremely bad weather and rough seas, with a high pollution risk for the sea and the coastal areas, the relevant Member State has to take the necessary actions to prevent ships from leaving the port.
- Member States make the necessary arrangements to ensure that there is enough space to welcome ships in distress (places of refuge).

In 2005, the European Commission announced more legislative initiatives in the context of the Erika III package. The revision of the Monitoring Directive of 2002 was part of these. This revision happened in the light of operational and technical developments in



the shipping world, namely in the area of the identification and tracking systems for shipping and satellite technologies.

On 23 April 2009, Parliament and Council agreed on Directive 2009/17/EC amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system. The new Directive also tightened the rules on places of refuge. The incident with the MSC Flaminia in July 2012 however demonstrated that ships in distress still have difficulty in finding safe accommodation. Parliament therefore called upon the Commission to address in particular the coordination and cooperation between Member States. This is likely to happen in the next revision of the Directive, which is scheduled for 2013 or 2014.

Some relevant documents

- *MON-001: Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC*

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26 STE

Security of Terminals

11 September 2001

In the aftermath of the terrorist attacks of 11 September 2001 on the World Trade Centre in New York, the shipping and the port sector had to face more and more stringent security regulations that try to secure the good flows to the United States. The United States Customs Service brought about two initiatives: the Container Security Initiative (CSI) and the Customs Trade Partnerships Against Terrorism (CTPAT).

ISPS code and EU Regulation

In addition to the initiatives of the US, the IMO approved in 2002 not only the amended SOLAS convention but also the ISPS code. ISPS stands for International Ship & Port facility Security. In the war against terrorism, a ship is considered to be a potential weapon and the port a location to be secured.

The ISPS code became EU law after being converted into a Regulation on enhancing ship and port facility security (STE-001). The Regulation went into force on 1 July 2004. A Regulation is binding and enters into force immediately in all Member States.

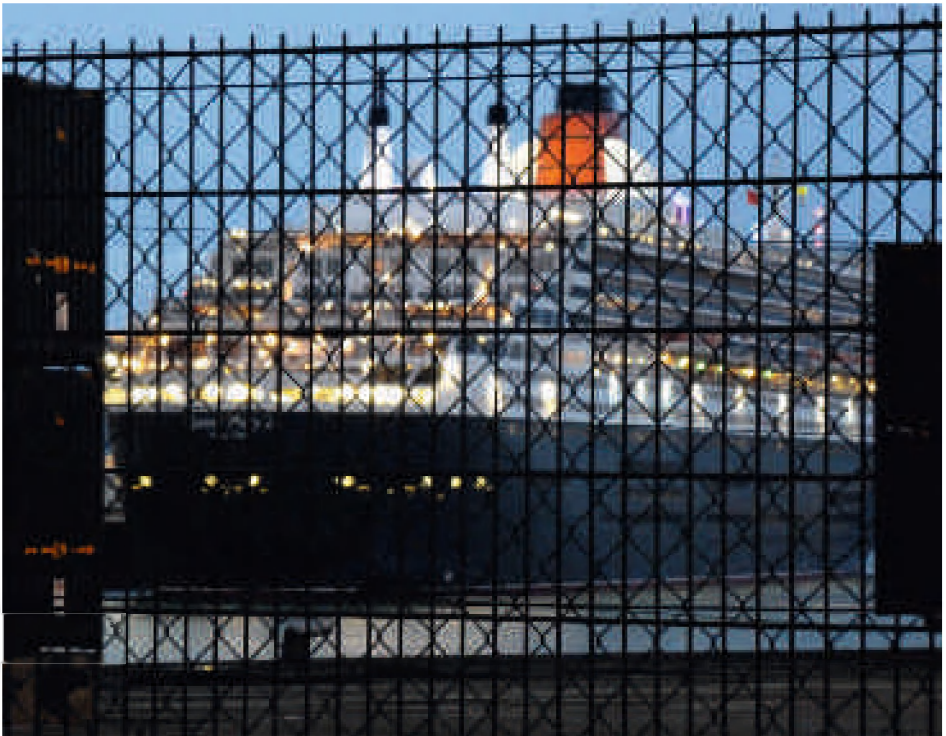
The goal of this conversion of international laws concerning maritime security in a Regulation is twofold: to guarantee a fast execution of these measures and to make sure that a harmonised implementation of the legislation in the whole community is assured. However, the proposed Regulation differs from the rules set out by the IMO. In the regulation, the security measures from the SOLAS convention as well as the ISPS code are extended to inland navigation and some elements that are not binding in part B of the ISPS code are binding to the EU.

MON
STE

The regulation is applicable on terminals in seaports for international and intra-European shipping traffic. Important elements are:

- Division of tasks and authorities.
- Implementation of risk analysis.
- Introduction of security plans.
- Approval of these plans.
- Compliance control.
- Reporting duties to the European Commission.

Member States should check that ships from any country asking for permission to enter a port of the Union comply with the security regulation. Member States have to set up a maritime security authority, who should coordinate, implement and control the application of the security measures required by the regulation. When a ship announces its intention to call at a port, the authority office has to request beforehand information on its international



security certificate and the level of safety at which it operates and has previously operated as well as any other relevant information.

Security checks in the port have to be carried out by the competent maritime security authority of the Member State. The international security certificate should be inspected by inspectors from the port state control, as provided in Directive 95/21/EC of the Council of 19 June 1995 concerning enforcement of international standards for ship safety, pollution prevention and shipboard living and working conditions in Member States, for ships using Community ports and sailing in the waters under the jurisdiction of a Member State (port state control). If there is more than one competent authority, they should complement each other.

The text of the Regulation of the European Parliament and of the Council on enhancing the ship and port facility security was approved on 31 March 2004 (STE-002).

STE

100% Scanning?

On the basis of the US September 11 Commission Recommendations Act, all containers sailing to the US should be scanned by the customs office as from 2012. The European Commission investigated independently the impact of such a regulation. The results showed a steep increase in operational costs and a need for high investments. In view of these results, the Commission proposed a different approach for the EU by opting for a behaviour-code instead of the costly scanning of all containers, considering new future improvements in technology, improved risk management and more cooperation within the EU and worldwide (STE-003 and STE-004). The implementation of the US '100% scanning' rule has meanwhile been postponed for two years and it is expected that further postponement may occur in the future.

Some relevant documents

- *STE-004: Study on the impact of security measures on the EU economy and trade relations (European Commission)*
- *STE-003: European Commission Staff Working Paper. Secure Trade and 100% Scanning of Containers*

- *STE-002: Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security*
- *STE-001: Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on enhancing maritime transport security*

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27 SPO

Security of Ports

On 26 October 2005, a Directive was approved on enhancing port security (SPO-001), complementing the Regulation 'on enhancing ship and port facility security' (see chapter 26). The Directive aimed at the extension of the security measures to the entire port zone without putting extra obligations on the zones already covered by the Regulation (terminals).

Ports are an essential link within the entire chain of transport and connect trade and passenger flows across seas and over land. Ports are often crossroads of transshipping dangerous cargo, for important chemical and petrochemical production centres and/or are located in the vicinity of a city. It is clear that a terrorist attack in ports can easily result in a serious dislocation of the transport system and can have a domino effect on industry in the area. It also causes direct damage to people in the port area or around.

The proposal depends on the same security structures and entities (security assessment, security officers, etc.) as Regulation (EC) No 725/2004 on enhancing ship and port facility security. This results in a general security system covering the entire maritime logistic chain, starting from the ship to the ship/port contact face, the entire port area and the port/hinterland interface. This approach simplifies and enables synergy regarding security efforts.

According to the Directive, Member States have to:



- Define the boundaries of their port area to implement the Directive;
- Take care of proper port security assessment and port security plans;
- Determine and report the security level and the amendments;
- Appoint a maritime security authority for each port or for a group of ports. This public authority is responsible to take proper security measures and to implement them.

The Directive also makes it mandatory:

- To appoint a staff member for port security in each individual port. This is needed for the appropriate setting up, updating and monitoring of the port security assessments and plans.
- To set up an advisory security commission, with representatives of all relevant operational and governing functions within a port.
- To apply minimum standards for a security assessment and security plans.

Finally, the Directive requires the creation of a cross-road platform in the Member States to set up the necessary communication links with the other Member States and the Commission. The Directive sets up inspection procedures for the monitoring of the implementation of the port security measures.

Some relevant documents

- *SPO-001: Directive 2005/65/EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security*

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SPO
STC

28 STC

Securing the Transport Chain

In 2006, the European Commission further sharpened security demands by a proposal for Regulation on improving security on the maritime supply chain (STC-001). The Regulation was however not approved and the proposal was revoked on 18 September 2010 (STC-002).



The goals of the European Commission were:

- To better secure the supply chain without obstructing trade flows;
- To create a common framework for a systematic Union approach without jeopardising the Common transport market and the existing security measures;
- To avoid unnecessary administrative procedures and burdens on the European and Member State level.

The European Commission proposed the following measures:

- A mandatory system of quality labels for "secure operators", meaning these operators comply with European security standards;
- A voluntary arrangement for stimulating supply operators to improve their security efforts
- Responsibility for the operators for their security level for transport within the Union;
- "Secure operators" will enjoy facilities when inspected on security checks, giving them a trade and competition advantage;
- Possibility to frequently amend and improve the security prescriptions by a committee procedure.

SPO
STC

Some relevant documents

- *STC-002: Withdrawal of obsolete Commission proposals: 2006/0025/COD. Commission Proposal for a regulation of the European Parliament and of the Council on enhancing supply chain security*
- *STC-001: Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on enhancing supply chain security - Commission Proposal for a regulation of the European Parliament and of the Council on enhancing supply chain security*

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Green Paper on Better Ship Dismantling

On 22 May 2007, the European Commission published a Green Paper on better ship scrapping (BSD-001). The motives for this Green Paper are the environmentally unfriendly and unsafe practice of ship dismantling in Asia. Studies show that 80% of the ships are scrapped in an environmentally unfriendly way and are unsafe for the workers.

In May 2009, the IMO adopted the "Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships". The convention will not come into force before 2013-2014. The EU Green Paper on the dismantling of ships therefore firstly addresses the transition period until the launch of the IMO convention.

The European Commission believes that most of the ships are scrapped in a way which is harmful for the workers and the environment. The European Parliament published a report on 21 May 2008 (BSD-002, for the full resolution: BSD-003), where it confirmed the statements of the Commission. The European Parliament called for legislative action before 2010, without waiting for the IMO Convention. A more accurate control could result in a better observing of



the European legislation on the transition of waste (see chapter 39). It has to be made clear when the life cycle of a ship has come to an end and when a ship should be considered as waste. Ships that are considered as dangerous waste should only be scrapped or cleaned in a Member State of the Organisation for Economic Cooperation and Development (OECD). The European Parliament also wants measures to make environmentally friendly recycling economically viable within the Union. The European Commission also ordered the setting up of measures to promote the transfer of know-how to places where ships are currently being dismantled.

On 23 March 2012, the European Commission proposed new rules to ensure that European ships are only recycled in facilities that are safe for workers and environmentally sound. The new rules, which will take the form of a Regulation, propose a system of survey, certification and authorisation for large commercial seagoing vessels that fly the flag of an EU Member State, covering their whole life cycle from construction to operation and recycling. This system builds upon the Hong Kong Convention for the safe and environmentally sound recycling of ships, which was adopted in 2009. The Commission proposal aims to implement the convention quickly, without waiting for its ratification and entry into force, a process which will take several years. To speed up the formal entry into force of the Hong Kong Convention, the Commission also presented a draft decision requiring Member States to ratify the convention. The Council and European Parliament are now discussing the Commission proposal.

BSD

Some relevant documents

- *BSD-003: European Parliament resolution of 21 May 2008 on the Green Paper on better ship dismantling (2007/2279(INI))*
- *BSD-002: Report on the Green Paper on better ship dismantling (2007/2279(INI) (European Parliament)*
- *BSD-001: Green Paper on better ship dismantling (European Commission)*

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Environment and Ports

30	BHD	The Birds and Habitats Directives, Natura 2000	1979 ■ 1992 ■ 2000 →
31	SUL	Sulphur Content of Marine Fuels	1993 ■ 1999 ■ 2005 →
32	PFS	Pollution from Ships	1993 ■ 2002 ■ 2005 →
33	GHG	Greenhouse Gas Emissions	1996 ■ 2003 ■ 2009 →
34	PRF	Port Reception Facilities	2000 →
35	WAT	Water Framework Directive	2000 →
36	NEC	National Emission Ceilings	2001 →
37	ENO	Environmental Noise	2002 →
38	SFD	Soil Framework Directive	2004 ■ ... →
39	RSW	Regulation on Shipment of Waste	2006 →
40	WAS	Waste Framework Directive	2005 ■ 2008 →
41	MSF	Marine Strategy Framework	2008 →
42	DPS	Supplementary Directive on Priority substances	2008 ■ 2011 →
43	AAQ	Ambient Air Quality	2008 ■ 2011 →
44	MSP	Maritime Spatial Planning	2011 →



The Birds and Habitats Directives, Natura 2000

Birds and Habitats

Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (BHD-001) relates to the preservation of all species of naturally occurring birds in the wild. It covers the protection, management and control of these species and lays down rules for their exploitation. The Directive applies to birds, their eggs, nests and habitats in the European territory of the Member States to which the Treaty applies.

Member States have to take measures to maintain the population of bird species at a level corresponding to ecological, scientific and cultural requirements, while taking economic and recreational needs into account. The Birds Directive was created during the 1970s, when birds were perceived as the most “at risk” species because of environmental degradation and hunting during migration. Gradually, however, the need occurred to protect other animals and plants too. That is why Council issued the Habitats Directive in 1992 (BHD-002). These Directives apply to the protection of certain species (from disruption and persecution) on the one hand and of natural habitats on the other hand. The protection of habitats aims at the preservation of specified species (for the birds, see Annex I of the Birds Directive; for other species, see Annex II of the Habitats Directive; for the protected habitat types, see Annex I of the Habitats Directive).

The Birds Directive was deemed necessary because a large number of wild bird species naturally occurring on the European territory of Member States are declining in number, whatsoever very rapidly in some cases. This decline represents a serious threat to the conservation of the natural environment, particularly because the biological balance is in jeopardy. Wild birds species naturally occurring on the European territory of the Member States are mainly migratory species. Such species constitute a common heritage. Consequently an effective bird protection is, therefore, typically a cross-border environmental problem entailing common responsibilities.

In order to protect natural wild birds, measures are deemed necessary to influence the factors determining the population level of birds, being the effect of human activity. The most notable measures aim to prevent the destruction and contamination of birds' dwelling places, prohibition of capture and destruction of birds by man, as well as the trade that is based on these activities.

Natura 2000

Special Protection Areas under the Birds and Habitats Directives form the Natura 2000 network (BHD-003), a scheme of internationally important natural areas that should guarantee the survival of certain species and habitats.

With the achievement of the Natura 2000 network, the European Commission wants to avoid the decline of biodiversity.

The so-called 'designation decisions' set geographical boundaries and conservation objectives. The designation as a Natura 2000 area could affect the existing uses (activities) by various sectors in or near those protected areas. For the individual Natura 2000 areas, management plans have to be designed, describing what is required to maintain or develop the sustainable conservation of the designated natural values. The management plans also stipulate how existing use (activities) in and near the protected area (including autonomous development) can proceed without having harmful effects on nature. For new use (activities), a license may be required.

In its Communication on European Seaport Policy (2007), the European Commission announced guidelines for the application of a European environmental and nature legislation for port development. This so-called Estuary Guidance has meanwhile been published in 2011 (see Chapter 5 on "European Ports Policy" (EPP)).

Life+

The LIFE+ programme is the financial instrument for co-financing of innovative environmental and nature conservation projects. The programme has been granted a budget amounting to 2.143 million euros for the period 2007-2013. During the third call for proposals which closed in November 2009, a total of 615 proposals were submitted. On 23 July 2010, the European Commission decided to

grant 210 of these projects in the categories of nature and biodiversity, environmental policy and management, information and communications. The total allowance of Life+ amounted to 250 million euros, the total of investment in these projects amounted to 515 million euros.

Biodiversity

Through its Communication on Biodiversity in January 2010, the European Commission declared 2010 as the European Year of Biodiversity. During that year, it was established that the common goals concerning the reduction and reinstatement of the continued decline in biodiversity were not met with existing policies. This was confirmed in the Environment Policy Review of 2009 (BHD-004), which was published on 10 August 2010. With its Communication, which outlined several policy options, the European Commission laid the foundation for the debate on the strategy and policy to be carried out. This initiative was followed by a consultation in the second half of 2010. At the same time, the European Parliament urged to make an effort to stop the decline in biodiversity by 2020.

On 21 June 2011, Environment Ministers at the Council reached an agreement on a common strategy and goals to tackle the decline of the biodiversity and the impoverishment of ecosystems and, where possible, to make progress by 2020 (BHD-005). The implementation of this strategy and the achievement of the goals also closely relate to the reform of the common agricultural and fisheries policy and the budget reform. The policy will, therefore, take its final shape in a later stage. Port related elements from the projected policy measures are to prevent the access of harmful exotic species (that for example enter EU waters through ballast water) and the identification, improvement, reconsideration or elimination of funding that harms the biodiversity.

Some relevant documents

- *BHD-005: Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions. Our life insurance, our natural capital: an EU biodiversity strategy to 2020*

- *BHD-004: 2009 Environment Policy Review (European Commission)*
- *BHD-003: Managing Natura 2000-sites. The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC (European Commission)*
- *BHD-002: Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (wild birds directive, consolidated)*
- *BHD-001: Council Directive of 2 April 1979 on the conservation of wild birds (wild birds directive, consolidated)*

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31 | SUL

Sulphur Content of Marine Fuels

Sulphur is by nature present in liquid and solid fuels such as oil and coal. Consequently, most marine fuels contain sulphur. The combustion of these fuels creates sulphur oxides (SOX) and particulate matter including primary soot particles, and secondary inorganic sulphate particles formed as a result of atmospheric oxidation of sulphur dioxide. During the combustion process, nitrogen oxides (NO_x) are also formed.

The emissions of sulphur dioxide and of particulate matter can cause damage to human health and to the environment. Furthermore, the emission of nitrogen oxides contributes to the formation of ground-level ozone, which may also be harmful to human health and vegetation.

These emissions can be reduced by imposing limits to the sulphur content of fuels as a condition for their use in Community territories. This was the aim of the Council Directive of 26 April 1999 relating to the reduction of sulphur content of certain liquid fuels, amending Directive 93/12/EEC (SUL-001). The directive,



however, does not apply to most of the fuels that are used by seagoing vessels.

Nevertheless, atmospheric emissions from seagoing ships contain air pollutants, greenhouse gases and ozone depleting substances. These emissions are hazardous for the sea and they do not stop at national boundaries. Ships' air pollutant emissions, particularly in coastal areas and in ports, spread to land and cause environmental problems which affect human health, the environment and the built surroundings. Wherever they are emitted, ships' greenhouse gas emissions contribute to global climate change and their emissions of ozone-depleting substances damage the ozone layer.

Despite major efforts at international level, so far no environmental issues have completely been solved. On the contrary, some problems, such as climate change, the ozone in the troposphere or the lower layers of atmosphere are getting worse. In other words, there is much room for improvement. Seagoing vessels are largely susceptible to these improvements, as they are, so far, not much included in the majority of EU legislation on emissions.

Therefore, Parliament and Council proposed a Directive amending Directive 1999/32/EC on the sulphur content of marine fuels. The Commission adopted the proposal on 20 November 2002. Two and a half years later, Parliament and Council approved Directive 2005/33/EC amending Directive 1999/32/EC as regards the sulphur content of marine fuels (SUL-002).

Within its provisions, the revised Directive was setting:

- A threshold of 1.5% for sulphur content of marine fuels used by all ships on the North Sea, English Channel and the Baltic Sea, according to the IMO (International Maritime Organisation) agreement on the so-called SO_x emission control area.
- A threshold of 1.5% for the sulphur content of marine fuels used by passenger vessels on regular services to or from any Community port, in accordance with EU standards for passenger ships.
- A 0.2% threshold for the sulphur content of fuels used by ships and inland waterway vessels while they are at berth in EU ports.

In the meantime, the International Maritime Organisation (IMO) established a scheme (Annex VI of IMO Marpol Convention) to designate the North Sea, the English Channel and the Baltic Sea as a low sulphur area for ships, a so-called 'Sulphur Emission Control Area' (SECA). With this arrangement, the sulphur content of marine fuel used in these and similar areas will be further reduced to 0.1% by 1 January 2015. At present, the considerably reduced norm of 1% already applies. This strict standard applies to shipping through the Channel and in the North and Baltic Seas. The current standard for the rest of the world is 4.5%; as from 2020 it will be converted to a 0.5% standard.

The European Commission proposed to incorporate the IMO agreement through the revision of Directive 1999/32. The proposed revision however appeared to go beyond what was decided at IMO level on the sulphur content of marine fuel. At the same time the Commission announced a 'toolbox' in which it wants to support the maritime industry in the transition from high to low sulphur fuel for the maritime industry. In summer 2012 Parliament and Council reached a first-reading compromise on the Commission's proposal. Parliament formally endorsed the compromise in September 2012. Once Council adopts it, the revised Directive can enter into force. Member States will then have 18 months to adopt

the necessary provisions at national level. The revised sulphur Directive will be setting the limits regarding the sulphur content of marine fuels to 0.1% within SECAs as of 1st January 2015 and to 0.5% elsewhere in Europe as of 2020.

Some relevant documents

- *SUL-002: Directive 2005/33/EC of the European Parliament and of the Council of 6 July 2005 amending Directive 1999/32/EC relating to the sulphur content of marine fuels*
- *SUL-001: Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC*

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32 PFS

Pollution from Ships

The basis of the Community policy on maritime safety was established on 24 February 1993 in a Commission Communication entitled A common policy on safe seas (COM (93) 66 final).

This Community policy on maritime safety, prevention of marine pollution and living and working conditions on board of ships, takes account of the approach of international institutions such as the International Maritime Organisation (IMO) and the International Labour Organisation (ILO).

Therefore, a number of measures were listed in the framework programme attached to the Commission Communication of 24 February 1993. These measures mainly aimed for the implementation and possible expansion of the standards established by these international organisations.

The programme included a series of legislative measures in a wide range of fields which relate to maritime safety and protection of the marine environment. The revision of Community legislation depends on the new rules that are approved at international level.

These international rules are mostly technical and are regularly amended, because of the fast-moving technological developments in shipbuilding, equipment, navigation and communication.

Due to the technical nature of these rules, the Council basic legal acts, Regulations or Directives generally provide the possibility to implement these amendments through the so-called "Committee Procedure". These regulatory committees were set up under Decision 87/373/EEC of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission. As regards maritime safety, five specific committees were established. However, the procedure through the regulatory committees led to a lack of transparency and coordination. Early 1993, the need to integrate these five committees into one committee was acknowledged.

This integration was accomplished by Regulation (EC) Nr. 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending Directives on maritime safety and prevention of pollution from ships (PFS-001).

The aim of this Regulation was to develop the implementation of Community legislation on maritime safety, prevention of pollution from ships and the protection of shipboard living and working conditions:



- By establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS), which centralises the tasks of the committees established under the relevant Community legislation on maritime safety;
- By accelerating the revision and facilitating the amendment of such legislation.

On 5 March 2003, the Commission adopted a new proposal to counter pollution caused by ships. On 7 September 2005, Directive 2005/35/EC of the European Parliament and of the Council on ship source pollution and the introduction of penalties for infringements was approved (PFS-002).

Some relevant documents

- *PFS-002: Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements*
- *PFS-001: Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships*

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33 GHG

Greenhouse Gas Emissions

On 23 April 2009, the European Parliament and the Council approved Decision No 406/2009/EC on the Member States' efforts to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 (GHG-001). The discussions on this issue started in January 2008 following a proposal from the European Commission. This Decision is essentially applicable to the industrial sector (including power plants, oil refineries and steel mills - accounting for almost half the Union's CO₂ emissions).

Although the Decision is not directly applicable to maritime transport, it clearly states that if no agreement is reached tackling greenhouse gas (GHG) emissions from shipping at international level, the Commission should take regional measures within 2012 to fulfil its international commitments in abating climate change. Such a proposal should minimise the negative impact on the Community's competitiveness while taking into account the potential environmental benefits. The Commission started an online consultation in spring 2012, as part of an impact assessment on potential measures that can be implemented at EU level. The results of the impact assessment are expected before the end of 2012, while a political decision on an EU approach is expected to follow in the first quarter of 2013.

However, in a joint statement issued in October 2012, Transport Commissioner Siim Kallas and Climate Action Commissioner Connie Hedegaard implicitly said that the Commission will for the time being not be looking to introduce a specific European market-based instrument to reduce greenhouse gas emissions from ships. They consider that the necessary starting point is to set a system for monitoring, reporting and verification of emissions based on fuel consumption and they expressed their intention to pursue such a system in early 2013. It is not clear yet how the Commission's proposal for a monitoring, reporting and verification scheme would work, while officially the possibility of a follow-up to EU market-based instrument is not completely swept off the table.

The decision on greenhouse gas emissions

The decision needs to implement the commitments made by Council to combat climate change and promote renewable energy. A thorough reform of the emissions trading system (ETS) will impose an EU-wide cap on emissions and should be an incentive for all major CO₂-emitting players to develop clean production technologies. The package enables the European Union to reduce greenhouse gas emissions by at least 20% by 2020 and to increase the consumption of renewable energy to 20%. The reduction in emission will reach 30% by 2020 when a new international agreement on climate change will be concluded.

Building on EU Emission Trading System (ETS) (GHG-002), it was decided to strengthen the single, EU-wide carbon market which will include greenhouse gases (currently only CO₂ is included) and



involve all major industrial emitters. The emission allowances put on the market will be reduced annually to allow emissions covered by the ETS to be reduced to 21% below the 2005 level in 2020.

The power sector, forming the majority of EU emissions, will face full auctioning from the start of the new regime in 2013. Other industrial sectors, as well as the aviation sector, will step up to full auctioning gradually, although an exception may be made for sectors particularly vulnerable to competition from producers in countries without comparable carbon constraints. In addition, auctions will be open: any EU operator will be able to buy allowances in any Member State.

The EU Emissions Trading Scheme has, according to the European Commission, proved to be an effective instrument to find a market-based solution to provide incentives for cuts in greenhouse gas emissions. At present, the system covers some 10,000 industrial companies across the EU, including power plants, oil

refineries, and steel mills, accounting for almost half of the EU's CO₂ emissions. Under the new system, over 40% of total emissions will be covered by the ETS.

In sectors not covered by the ETS such as buildings, transport, agriculture and waste, the EU will reduce emissions to 10% by 2020 compared with 2005 levels.

The decision also refers to specific targets that are set for each EU Member State to reduce the use of biofuel by a minimum of 10% in the transport sector by 2020.

The Revision Climate and Energy Package

In December 2008, the European Council of Ministers and the European Parliament agreed on a Climate and Energy Package. This package includes a revision and strengthening of the Emissions Trading System (ETS), the EU's key tool for cutting emissions cost-effectively. This package also integrated new Regulations on the quality of transport fuel and a Regulation on the reduction of CO₂ emissions from passenger cars.

White Paper - Roadmap to a Single European Transport Area

The White Paper - Roadmap to a Single European Transport Area (see chapter 7, WHP) explicitly addresses greenhouse gas emissions of the transport sector. We need to bring an end to the dependency of the transport sector on oil without sacrificing the system's efficiency or compromising the mobility of people and businesses. The aim of the Transport White Paper is to reduce emissions in aviation up to 50% by 2050, emissions of ships by 40 to 50% and reduce emissions from road transport by 80%. At the same time, a growth in passenger traffic by 50% and freight transport by 80% is expected for the same period.

Some relevant documents

- GHG-002: Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC

■ *GHG-001: Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 (European Parliament and the Council)*

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34 PRF

Port Reception Facilities

The aim of Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues (PRF-001) is to reduce the discharge of ship-generated waste and cargo residues into the sea, especially illegal discharges, from ships using ports in the Community. This can be done by making available and improving reception facilities.

The Community is seriously concerned about the pollution of seas and shores of EU Member States through (illegal) discharges of ship-generated waste and cargo residues, specifically on the implementation of the 1973 International Convention for the Prevention of Pollution from Ships as amended by the relating Protocol of 1978 (MARPOL 73/78).

MARPOL 73/78 was designed to preserve the marine environment through the complete elimination of pollution by oil and other harmful substances and the minimisation of accidental discharge of such substances. It required the signatories to provide port reception facilities in their ports. MARPOL 73/78 was ratified by all Member States.

In its resolution of 8 June 1993 on a common policy on safe seas, Council identified the development of the availability and use of waste reception facilities in the Community as a priority action.

The pollution of seas is a transnational problem. Taking action at Community level is therefore the most effective way, under the subsidiarity principle, to ensure common environmental standards



for ships and ports throughout the whole Community. According to the proportionality principle, a Directive is the appropriate legal instrument, as it provides a framework for uniform and compulsory application of environmental standards by Member States, while each State is free to decide which implementation tools best fit its internal system.

In the interest of improving pollution prevention and avoiding distortion of competition, the environmental requirements should apply to all ships, irrespective of the flag they fly, and adequate reception facilities should be made available in all ports of the Community.

In order to reduce the discharge into the sea, all ships are obliged to transfer their waste to a reception facility prior to departure, unless the ship's own waste storage capacity suffices to the next

port. A compulsory fee system – whether or not waste is transferred – encourages the transfer of ship-generated waste to ports instead of discharge into the sea.

In 1998, the European Commission proposed the file, which went through the entire co-decision procedure until Parliament and Council approved the Directive on 27 November 2000. Member States had to implement the Regulation as from 28 December 2002, with the exemption for sewage (this Directive took effect 12 months after the entry into force of Annex IV of MARPOL 73/78).

At present, the Directive on port reception facilities for ship-generated waste and cargo residues is being revised. EMSA carried out a horizontal assessment in 2009-2010. A stakeholder consultation was completed by mid-2011. The European Commission is currently completing its impact assessment. A proposal for an amended Directive, that also corresponds with the revised MARPOL Annexes V and VI, is expected by the end of 2012 or in spring 2013.

Some relevant documents

- *PRF-001: Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues*

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35 | WAT

Water Framework Directive

The European Parliament and the Council agreed on 23 October 2000 on the Directive establishing a framework for Community action on water policy (WAT-001).

The aim of the Water Framework Directive is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater which:

1. Prevents from further deterioration, protects and enhances aquatic ecosystems and their water requirements, terrestrial



ecosystems and water areas which directly depend on aquatic ecosystems;

2. Promotes sustainable use of water, based on long-term protection of available water resources;
3. Enhances protection and improvement of the aquatic environment, including specific measures for the progressive reduction of discharges, emissions and losses of priority substances and the cessation or phasing out of discharges, emissions and losses of priority hazardous substances;
4. Ensures the progressive reduction of groundwater pollution and prevent further pollution;
5. Contributes to mitigating the effects of floods and droughts.

This will contribute to:

- The availability of sufficient surface water and groundwater of good quality for a sustainable, balanced and equitable water use;
- A significant reduction of groundwater pollution;

- The protection of territorial and marine waters;
- The achievement of the objectives of relevant international agreements, including those aimed at preventing and eliminating the pollution of the marine environment, by Community actions under Article 16, chapter 3, this in order to cease or phase-out discharges, emissions and losses of priority hazardous substances, in order to achieve concentrations near the background values for naturally occurring substances and to achieve near zero concentrations for synthetic substances.

The Water Framework Directive requires Member States to adopt environmental quality goals and to develop river basin management plans before 2009 to ensure that these quality objectives are met and maintained. The ecological quality objectives are related to the characterisation of the affected body of water (natural, strongly modified or artificial water). Chemical quality targets will be established in the EU Priority Substances Supplementary Directive (see DPS, chapter 42). The Water Framework Directive extends to coastal waters (12 nautical miles for ecological quality objectives and 1 mile for chemical quality goals).

Some relevant documents

- *WAT-001: Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy*

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36 **NEC**

National Emission Ceilings

On 23 October 2001, the European Parliament and the Council adopted the Directive on national emission ceilings for certain atmospheric pollutants (NEC-001).

National Emission Ceilings Directive (NEC) aims at limiting emissions of acidifying and eutrophying pollutants and ozone precursors in order to improve the protection in the Community of the environment and human health against risks of adverse effects

from acidification, soil eutrophication and ground-level ozone. The ultimate goal is that:

- Critical levels and loads are not exceeded;
- Everyone is effectively protected against recognised health risks from air pollution by establishing national emission ceilings - taking the years 2010 and 2020 as benchmarks - and through successive revisions as defined in Articles 4 and 10.

Member States are limited in their annual national emissions of the pollutants sulphur dioxide (SO_2), nitrogen oxides (NO_x), volatile organic compounds (VOC) and ammonia (NH_3). The NEC Directive had to be revised in 2010. Proposals for this Directive will however be done in conjunction with other policies that are being prepared or planned, as announced by the European Commission early 2011. In a new NEC Directive, ceilings will undoubtedly be set lower, but it is not clear how much.



Some relevant documents

- *NEC-001: Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants*

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37 ENO

Environmental Noise

The European Parliament and the Council adopted on 25 June 2002 a Directive related to the provision and management of noise nuisance (ENO-001). The Directive provides a common basis for the noise problem in the European Union. The basic principles of this Directive are the same as those of other environmental policies.

1. Monitoring the environmental problem; by requiring competent authorities in Member States to draw up "strategic noise maps" for major roads, railways, airports and agglomerations, using harmonised noise indicators L_{den} (day-evening-night equivalent level) and L_{night} (night equivalent level). These maps will be used to assess the number of people affected and sleep-disturbed respectively throughout Europe;
2. Informing and consulting citizens about noise exposure, its effects and the measures considered to address noise, in line with the principles of the Aarhus Convention;
3. Addressing local noise issues by requiring competent authorities to draw up action plans to reduce noise where necessary and maintain the noise level where it is acceptable for human health. The Directive does not set any threshold value, nor does it prescribe measures to be used in the action plans, which remain at the discretion of the competent authorities;
4. Developing a long-term EU strategy, which includes objectives to reduce the number of people affected by noise in the longer term, and which provides a framework for developing a Community policy on noise reduction at its source. Additional legislation on noise emission is considered.

The first EU-wide noise mapping exercise in 2007 found considerable differences in assessment methods, data collection and quality. On 14 September 2012, the European Commission published common noise assessment methods (CNOSSOS-EU) to enable more easily the assessment of exposure to noise from transport (road, rail, air traffic) and from industry. Moreover, the methods will allow coherent and comparative data to be provided on noise levels to which Europeans are exposed. The ultimate aim is to reduce those levels.

Some relevant documents

- *ENO-001: Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise*

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Soil Framework Directive

The European Commission introduced a request on 22 September 2006 for a Directive from the European Parliament and the Council establishing a framework for the protection of soil and for the amendment of Directive 2004/35/EC (SFD-001).

The suggested Directive includes:

- The achievement of a common framework concerning the soil protection on the basis of the principles of the preservation of soil functions, prevention of soil degradation, reduction of the effects of soil degradation; rehabilitation of degraded soils and integration in other sectoral policies.
- The demand to establish, describe and assess the impact of certain sectoral policy orientations on soil degradation processes; taking into account the protection of soil functions.
- The commitment for land owners to take precautions when it appears that the way they use the soil significantly impedes the normal soil functions.



- An approach to soil sealing to ensure a more rational use of land in accordance with Article 174 of the EC Treaty and to maintain as many soil functions as possible.
- Mapping of areas where there is a risk of erosion, organic matter decline, salinisation, compaction and landslide, and the establishment of a national action programme. The size of the threatened areas should therefore be estimated. In order to guarantee a consistent and comparable approach, the determination of the risks should take place on the basis of common elements. This includes parameters that are known as the driving forces for the different soil threats. Targets to reduce the risks should be adopted, just as measures to achieve these objectives. These programmes can be built on the standards and on the measures which are already formulated and implemented at national and community level.
- Measures to limit the introduction of hazardous substances in soils. These measures will avoid an accumulation of such substances in the soil so that they do not compromise the soil functions and that they do not create a risk for the human health and the environment.
- The creation of an inventory of contaminated sites, the setting up of a funding mechanism for the curing of "orphan sites", the disposition of soil reports and the establishment of a national strategy for the curing of the assessed contaminated sites. It includes a definition of "contaminated sites" and a list of the potentially contaminated soil activities. These are the basis for the tracing of potentially contaminated sites, which is a preparatory step for the creation of an inventory of effectively contaminated sites. To complement the above-mentioned information, the seller and the potential buyer have to write a report about the actual state of the soil ("Soil Report"). This report has to be written for every single sale. A similar provision on the energy performance of the buildings is already part of the Community law (see Article 7 of Directive 2002/91/EC).

On 14 November, the European Parliament determined its position in first reading on the proposal of the European Commission. In the Environment Council meeting of 20 December 2007 no political agreement was reached. Germany, France, Malta, The Netherlands, Austria and the United Kingdom rejected the proposal for various reasons; a blocking minority. Up to September 2012, the situation

did not change. The European Commission did not change, nor withdraw its proposal. Member States maintained their position. Further action is not expected before 2013.

Some relevant documents

- *SFD-001: Commission Proposal for a Directive of the European Parliament and of the Council establishing a framework for the protection of soil and amending Directive 2004/35/EC*

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39 RSW

Regulation on Shipment of Waste

On 14 June 2006, the European Parliament and the Council approved the Regulation on shipment of waste (Regulation 1013/2006/EEC).

The import and export of waste is governed internationally by the Basel Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal. The European Community is a party to this Convention and incorporated it in 1993 in the Regulation (259/93/EEC) of the Council, the so-called Regulation on European Shipment of Waste (RSW-001). This Regulation was valid as from May 1994 and aimed at supervising and controlling the waste movements in order to take into account the need to preserve, protect and improve the environmental quality.

The Regulation was based on the guiding principles of the Community Waste Management Strategy (i.e. prevention, helpful application and definitive separation) and contained a set of norms according to which the Community as a whole should allow its own waste removal. These norms also refer to the necessity of individual Member States to take into account the geographical circumstances and the possible need for specialised installations for certain types of waste.

In the meantime, the Regulation on the supervision and control of shipment of waste (259/93/EEC) was amended in 1993. The new Regulation (1013/2006/EEC) was published on 16 July 2006 and was valid as from 12 July 2007. In 2006 and 2008, there were two modifications (RSW-003). Both procedural and substantive changes occurred with the introduction of the new EVOA. The main changes are:

- Two lists of waste instead of three: the new Regulation has a green and an orange list (respectively one list of waste that has to be supplemented with certain information and a list of



waste for which the procedure of prior written notification and permission applies).

- Compulsory form for the shipment of waste from the green list: the possibility to use a free transport scheme expires.
- Introduction of a new notification: the duty to inform is now compulsory for the shipment of more than 20kg waste mentioned on the green list. As concerns waste from the orange list, the duty of information is only compulsory when transport is organised with a written authorisation.
- For transport to non-OECD countries, the Land Regulation (1418/2007, 29 November 2007) applies. In that Regulation, it is stated which countries wish to receive waste from the green list and whether notification is compulsory or not.
- In the future there will be a list of mixed waste that can be considered as green waste.

Some relevant documents

- *RSW-003: Corrigendum to Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste*
- *RSW-002: Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste*
- *RSW-001: Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community*

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40 WAS

Waste Framework Directive

On 21 December 2005, the European Commission proposed a Waste Framework Directive to the European Parliament and the Council. Parliament and Council adopted the Directive on 19 November 2008 (WAS-001).

This Directive sets out a mechanism to tackle one of the issues around the waste definition: criteria to determine when some waste streams cease to be waste (for example, when composted biological waste becomes compost). It revised the 1975 Waste Framework Directive in order to set recycling standards and to force EU Member States to develop national waste prevention programmes. This revision also merged, streamlined and clarified legislation, contributing to better regulation.



The main changes of the Waste Framework Directive are:

- Introduction of an environmental goal;
- Clarification of the concepts of useful application and disposal;
- Clarification of the conditions under which hazardous waste may be mixed;
- Introduction of a procedure to clarify the conditions under which waste ceases to be waste;
- Introduction of minimum standards or of a procedure to establish minimum standards for a range of waste management operations;
- Introduction of requirements to develop national programmes for the waste prevention.

This Directive establishes measures to reduce the environmental impacts of production and waste management. The Directive also stipulates that Member States should establish priority measures to prevent or to reduce their waste production. Secondly, it aims at ensuring waste recovery through reusing, recycling and other applicable proceedings.

A significant detail for seaports, which has been discussed in the European Parliament and at the Council, is the appreciation of dredged-material from the point of view of this framework. Initially, the proposal considered as waste “all substances we want to get rid of”. Thus, sediment removed for nautical reasons and dispersed elsewhere in the same water system, was considered to be waste. However, this approach is not practical at all, especially when looking at the enormous amount of sediment from tidal ports that has to be removed regularly. From an environmental point of view, there is no reason to bring clean sediment within the scope of this Directive. Clean sediment should be either dispersed in salt waters or used on land.

Without prejudice to obligations under other relevant Community legislation, sediments relocated inside surface waters for the purpose of managing waters and waterways or of preventing floods or mitigating the effects of floods and droughts or land reclamation shall be excluded from the scope of this Directive if it is proved that the sediments are non-hazardous.

Some relevant documents

- *WAS-001: Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives*

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41 MSF

Marine Strategy Framework

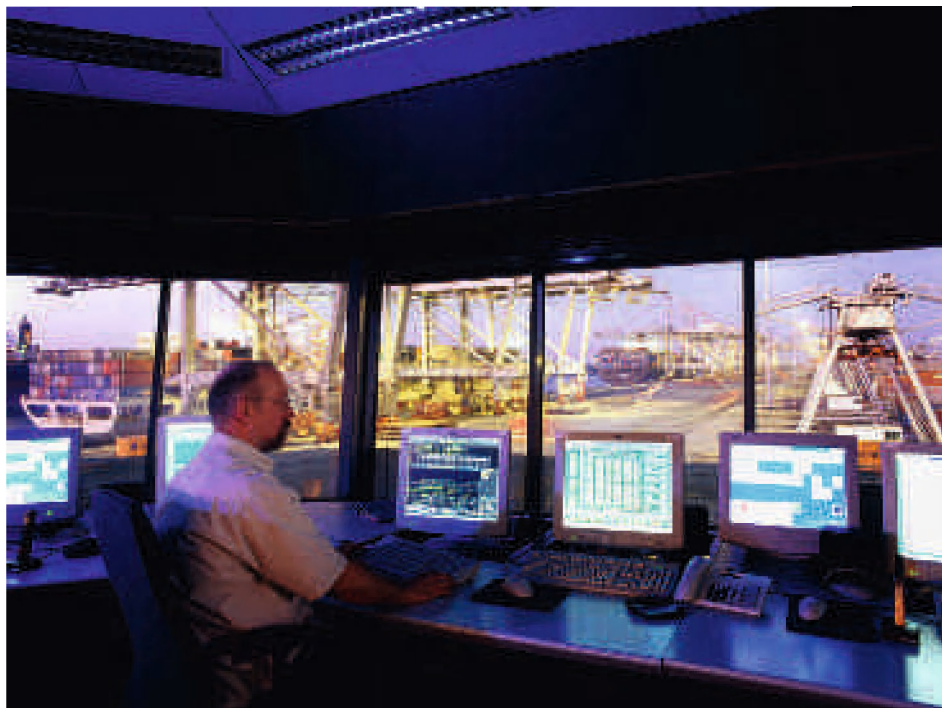
The Integrated Maritime Policy (see section 5) is fully aligned with, and supportive of, other EU policies including: the development of a knowledge economy (Lisbon) and sustainable development principles (Gothenburg). The latter was elaborated in the European Marine Strategy, which is anchored in the Marine Strategy Framework. This Marine Strategy forms the environmental basis of the European Marine Policy.

On 17 July 2006, the European Commission introduced a proposal for a Directive from the European Parliament and the Council to establish a framework for community measures as concerns the policy in regard to the Marine environment (MSF-001)).

The MSF obliges Member States to develop and implement maritime strategies. The goal is to achieve and maintain good environmental conditions for all European bordered seas by 2020 at the latest. The MSF has the following goals:

- Taking care of the protection and the maintenance of the marine environment,
- Preventing deterioration,
- Improving damaged ecosystem.

The MSF divides European seas in marine regions and subregions. The development of strategies for the marine environment takes place in different phases. By 2015, a series of measures should be developed so as to be applicable in 2016. By 2020, the measures should result in a good state for the marine environment. Member States from the same marine region have to collaborate in order to have coherence and coordination in their marine strategies.



Besides, they should take care of synchronising with non Member States which are in the same marine region, especially for regional maritime agreements.

Maritime strategies are based on the protection and preservation of the ecosystem and on the management of human activities having an impact on the marine environment.

It is essential to have a certain flexibility to reduce the costs when there are no large risks for the marine environment. Member States are not obliged to follow special measures if there is no specific risk for the environment or if these measures are not in line with the risk. Member States ought to prove that the marine environment would not be further damaged and to prevent constant threat for the environment.

After the completion of the second reading by the European Parliament, the Council agreed on MSF on 14 May 2008. This

provides Member States with a framework which enables them to undertake every useful measure in order to achieve and maintain a good state by 2020 at the latest. Therefore, Member States should develop and implement maritime strategies oriented towards the three above-mentioned goals. Step by step, marine pollution should thus be diminished so that there is no risk anymore for the sea biodiversity, the marine ecosystem, public health and the normal use of the sea.

Since the approval of the MSF, its implementation is proceeding well not only at European level, but also at member states level. On 1 September 2010, the European Commission introduced criteria according to which the environmental state will be determined and which will determine the state in 2020. The Commission believes that the environmental state of the sea should be assessed on the basis of biological diversity, fish population, eutrophication, contaminants, waste and noise. These criteria have been chosen on the basis of current scientific knowledge and they can be adapted in function of new scientific insights.

Some relevant documents

- *MSF-001: Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)*

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MSF
DPS

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Supplementary Directive on Priority Substances

On 17 July 2006, the European Commission introduced a proposal for a Directive of the European Parliament and the Council concerning norms about the environmental quality on water policy and amending Directive 2000/60/EC. On 16 December 2008, Parliament and Council approved the Directive (DPS-001).

This Directive on Priority Substances follows article 16 of the Water Framework Directive, which stipulates that restrictions should be determined for these priority substances. For this purpose, the European Commission drew up in 2001 a first list with a norm proposal for 33 priority substances. The new Directive may affect decentralised authorities with respect to water purification, as new demands for the purification of water are imposed.

The supplementary Directive focuses on 33 contaminating substances. By 2018, Member states should have made progress to achieve the maximum allowed concentrations and the annual average of the 13 priority hazardous substances. Cadmium, lead, mercury and chemical compounds with these elements are part of these 13 substances. The European Commission will draw up a report of the progress made in this area, as well as on the basis of an inventory of the emissions, discharges in water and losses in the member states. The list of priority substances and of the corresponding allowed concentrations should be revised at the latest two years after the introduction of the supplementary Directive. The European Parliament added 13 new substances (among others dioxins, PCB's, biphenol) to the original list of the potential priority substances or priority hazardous substances. These 13 substances should be taken into account when the list is revised. Next to discharge – so-called mixing zones – the allowed concentrations of one or more substances and other priority pollutants may be exceeded, if and only if the norms in the respective body as a whole are respected. Member States can define the mixed zones on the basis of certain criteria. In harbour areas, the density of matter in suspension can be temporarily very high due to dredging.

On 31 January 2012, the European Commission published a revised supplementary Directive (COM (2011) 876 final). Highlights are:

- Extension of the current list of 33 priority substances with 15 other substances or categories of substances among which 3 medical drugs.
- Modification of the current list of priority substances with respect to environmental standards and/or their status (priority of priority dangerous).
- Additional rules, like a lower monitoring frequency, for dangerous substances of which the use has been prohibited but will linger in the environment because of their persistence.

- Rules on a watch list in which it is stipulated that in preparation of a next selection procedure a limited number of substances (10-20) is to be monitored on a limited number of locations in each member state.

The European Commission proposes the introduction of biota standards next to the existing maximum allowed concentrations in water. On the other hand and as expected, the Commission does not propose the introduction of sediment standards.

Some relevant documents

- *DPS-001: Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council*

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DPS
AAQ

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Ambient Air Quality

On 21 September 2005, the European Commission introduced a proposal for a Directive of the European Parliament and the Council on ambient air quality and cleaner air for Europe. On 11 December 2007, the European Parliament and the Council of Ministers achieved an agreement on the new EU Directive. The Council adopted its Common Position on 25 June 2007 (AAQ-001).

The Commission proposal aimed at profoundly revising five individual elements of the existing *acquis* and at merging these elements in one single Directive. This would simplify and streamline the existing stipulations, i.e. on the issue of control and reports. The proposal would also update the stipulations in the light of new scientific developments and would take care of a better control of the exposure of the population.

The Directive Ambient Air Quality is a keystone in the thematic strategy in the campaign against air pollution in Europe. For the first time, restrictions were established for the finest particulate matter (PM_{2.5}; particle size < 2.5µm), which is more dangerous than particulate matter (PM₁₀) for the human health.

The Directive provides a target value for the finest particulate matter of 25 µg/m³ in 2010. This concentration will be the limit value in 2015. As from 2020, an intensified limit value will be applied for PM_{2.5}: 20 µg/m³. The European Commission will evaluate this value in 2013 and will subsequently either fix this value or propose another one. In both cases, Member States are obliged to reduce the PM_{2.5} concentration by 15 to 20% by 2020 compared to the average concentration in the period 2008 - 2010 in urban areas. Moreover, Member States have to ensure that the exposure level is below 20 µg/m³ in urban areas by 2015 ("exposure concentration obligation"). This "exposure concentration obligation" will also be evaluated in 2013.

The existing rules with respect to rougher particulate matter (PM₁₀) are still valid, i.e. a threshold value of 40 µg/m³ for the annual average concentration. For the time being, no further reduction is anticipated. The daily average concentration may not exceed 50 µg/m³ more than 35 times a year.

In 2009, the European Commission allowed several Member States (on their request) to temporarily exceed the air quality norms (derogation). On the other hand, an infringement procedure was opened against some Member States because they exceeded the air quality norms. Since early 2011, the revision of the Thematic Strategy air quality and the Directive of Air Quality combined with the Directive National Emission Ceilings is being prepared. The Commission aims at:

- Achieving the levels of air quality that do not give rise to significant negative impacts on and risks to human health and environment;
- Ensuring that EU air quality policy is updated in line with the best available knowledge in the field;
- Identifying regulatory and non-regulatory options that could remedy defective implementation of existing policy.



The European Commission believes that future air quality policy should be conducted at every level: European, national, regional and local. Cross-border pollution at EU level will be tackled in the context of the Directive on National Emissions Ceilings (see also chapter 36), by tackling pollution at its source, especially when this relates to transport. By mid-2012, the consultation process with all stakeholders was underway.

AAQ
MSP

Some relevant documents

- AAQ-001: *Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe*

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Maritime Spatial Planning

The European institutions (Council, Parliament and Commission) consider maritime spatial planning as an important tool for the development of an integrated maritime policy in Europe. With its announcement "Roadmap for Maritime Spatial Planning: Achieving Common Principles in the EU", the European Commission issued the first outline for a Community approach of the MSP (MSP-001).



The roadmap simplifies the development of the spatial structure of the sea and of the coastal zones. Moreover, it is one of the tools for the implementation of the European Integrated Maritime Policy, according to the Commission. Spatial arrangement on the sea may contribute to the preparation of coastal zones for the consequences of climate change, such as the rising of the sea level, floods, changing marine ecosystems and investments in the coastal protection. The Commission indicates that 22 out of 27 Member States located at the seaside have a coastline length of roughly 70,000 kilometres. In addition, approximately 40% of EU citizens live in coastal zones.

On 17 December 2010, the European Commission issued the report “Maritime spatial planning in the EU-achievements and future development” (MSP-002). Its conclusion clearly points to the need for further action at EU level if Europe wants to achieve a coherent framework for Maritime Spatial Planning. In view of this, the Commission enquired the impact of different possibilities for the

extension of the maritime spatial arrangement and the planning of the coastal zones. The results were presented in 2011. By combining maritime and related activities of various sectors into a single planning framework, the MSP may prevent conflicts, maximize synergy as well as guarantee an efficient and sustainable use of the scarce maritime place.

On 22 March 2011, the European Commission started an online consultation in order to collect background information for a future policy for MSP and Integral Coastal Zone Management (ICZM). The Commission alludes to a European Directive that helps the cooperation between Member States. A proposal for an MSP Directive has been introduced in the working-plan 2012 of the European Commission. The impact assessment has been completed and its outcomes are currently subject to internal review, while the Commission intention remains to come up with a common regulatory instrument for both MSP and ICZM. DG MARE and DG Environment work closely together in view of formulating their proposals by the end of 2012.

In the meantime, the Commission initiative on MSP and ICZM is referred to as one of the building blocks for a successful blue economy within the Communication on “Blue Growth - opportunities for marine and maritime sustainable growth” that was published in September 2012. Blue growth is defined by the Commission as an initiative to harness the untapped potential of Europe's oceans, seas and coasts for jobs and growth.

Some relevant documents

- *MSP-002: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Maritime Spatial Planning in the EU - Achievements and future development*
- *MSP-001: Communication from the Commission. Roadmap for Maritime Spatial Planning: Achieving Common Principles in the EU*

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Support of projects and studies

45

FPR

Framework Programmes

1984 ■ ... ■
2007 →

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MAP

Marco Polo

2003 ■ 2006 →





Framework Programmes

Framework Programmes are the most important EU-tools to finance R&D in Europe. The European Commission submitted the programme and the Council and European Parliament adopted it in a co-decision procedure. The programme expands on a period of five years, the last of which overlaps with the first year of the following programme. Since 1984, six frameworks have been carried out. The seventh framework started on 1 January 2007 and ends in 2013.

In the Lisbon strategy, R&D is a key component of the 'triangle of knowledge', which has to stimulate growth and employment in the European Union (EU) in a global economy. The seventh Framework Programme (FP7) for the period 2007 - 2013 offers the EU the opportunity to adjust the study policy to its economic and social ambitions by reinforcing the European R&D scope. To achieve this goal, the Commission wants to increase the EU annual budget allocated to studies in order to cultivate more national and private financing. In its implementation, FP7 should not only meet the requirements of industry's studies and knowledge, but also those of European policy. The framework is structured according to four programmes and is considerably simplified in comparison to the previous programmes. This has been done in order to increase its effectiveness and to simplify the accessibility of the examiners (FPR-001 en FPR-002).

The budget for FP7 was fixed at 50.521 billion euros.

Some relevant documents

- *FPR-002: "FP7 Tomorrow's answers start today", brochure about seventh framework programme (European Commission)*
- *FPR-001: Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013)*

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Marco Polo

PACT

The Marco Polo programme is the successor of the PACT-programme (Pilot Actions on Combined Transport), which was active until 2001. The aim of the PACT was the development of a sustainable transport system. Subsidies were administrated to innovative projects for the benefit of combined transport, to projects which realised a shift towards environmental friendly transport modes as well as to projects which promote the development of cleaner cars and the development of telematics in transport.

Marco Polo I: 2003-2006

The Marco Polo programme aimed at supporting a key element in the policy of the 2001 Transport Policy White Paper . This key element intended to achieve a balanced modal shift, thanks to the contribution of intermodality.



The principal goal of the Marco Polo programme was to reduce congestion on roads as well as to improve the whole transport sector in a more ecological way. This could be reached by transferring road transport to sea (Short Sea Shipping), to rail or to inland waterways. The Marco Polo programme was introduced by the Commission on 30 January 2002 and became valid in 2003 (MAP-001).

The Marco Polo programme supported the following projects:

- Start-up support for new non-road freight transport services, which should be viable in the mid-term and which support modal shift;
- Support for launching freight services or facilities of strategic European interest (catalyst in the freight logistics market);
- Stimulating replication, and forging common goals, based on projects executed in the market

The projects should always have an international nature. The Marco Polo programme could also support projects submitted by candidate Member States.

Marco Polo II: 2007-2013

In July 2004, the European Commission introduced a new and adapted Marco Polo Programme II for the period 2007 – 2013 through “Regulation (EG) Nr. 1692/2006 (MAP-002). On the basis of the experience with the first programme, some modifications were made.

On 27 July 2009, the Council of Ministers amended the second Marco Polo programme by suggesting the simplification of the use of funds in the programme. This amendment includes: simplification of the participation of small enterprises (a single enterprise can now appeal for an allowance), lower thresholds, bigger intensity of the investment and simplification of the application of the programme and of the administrative procedures (MAP-003). Before introducing a third call for proposals under Marco Polo programme, the European Commission will announce the results achieved in the period 2003 – 2010.

Some relevant documents

- MAP-003: Regulation (EC) No 923/2009 of the European Parliament and of the Council of 16 September 2009 amending Regulation (EC) No 1692/2006 establishing the second "Marco Polo" programme for the granting of Community financial assistance to improve the environmental performance of the freight transport system (Marco Polo II)
- MAP-002: Regulation (EC) No 1692/2006 of the European Parliament and of the Council of 24 October 2006 establishing the second "Marco Polo" programme for the granting of Community financial assistance to improve the environmental performance of the freight transport system (Marco Polo II) and repealing Regulation (EC) No 1382/2003
- MAP-001: Regulation (EC) No 1382/2003 of the European Parliament and of the Council of 22 July 2003 on the granting of community financial assistance to improve the environmental performance of the freight transport system ("Marco Polo programme")

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Annexes

Glossary

Procedures





Annex 1: Glossary

Cohesion Funds

Structural Funds and Cohesion Funds are financial instruments of the European Union (EU) for the regional policy. With this policy the Union intends to reduce the differences in the level of development between the regions and between the member States. The funds are an important instrument to promote the economic, social and territorial cohesion. For the period 2007-2013 a total amount of 348 billion euros was budgeted: 278 billion euros for the Structural Funds and 70 billion euros for the Cohesion Funds. This is about 35% of the total budget of the Community and the second largest article of the budget.

There are two Structural Funds:

- The European Fund for Regional Development (EFRD) is presently the most important Structural Fund. It focusses on companies, infrastructure works and production investments creating employment. Through this fund investments creating employment are financed since 1975.
- The European Social Fund was established in 1958 and supports professional integration of unemployed people and underprivileged groups of the population by financing training actions.

In order to stimulate the economic, social and territorial convergence, the European Union established in 1994 a Cohesion Fund. Eligibility is restricted to Member States whose per capita gross national product (GNP) is less than 90% of the Community average. The aim of the Cohesion Fund is to finance environmental infrastructure projects. However, the financial support is conditional. If a Member State fails to fulfill its obligations under the stability and convergence programme and allows its public deficit to exceed 3%, no projects are approved until the deficit is under control (below 3% of the GNP).

These funds are intended to finance the regional policy between 2007 and 2013, in view of three new goals:

- The goal "Convergence", aiming at enhancing the convergence of the less developed Member States and regions in the European Union by improving the conditions for growth and employment. This goal is financed by the EFRD, the ESF and the Cohesion Fund.

81.5% of the financial means go to this goal. The maximal contribution to co-financing public expenditure amounts to 75% for the EFRD and the ESF and to 85% for the Cohesion Fund.

- The goal “Regional competitiveness and employment” must allow to anticipate on economic and social changes and to promote innovation, entrepreneurship, environmental protection and the development of inclusive labour markets in regions which are not covered by the goal “Convergence”. This goal, which is financed by the EFRD and the ESF, receives 16% of the allocated means. Measures covered by this goal can be co-financed for a maximum of 50% of the public expenditure.
- The goal “European territorial cooperation” aims at intensifying the cross-border, transnational and interregional cooperation with the development of towns, the rural development and the coastal development., the development of economic relations and the establishment of networks for small and medium sized companies (SMC). This goal, which is financed by the EFRD, receives 2.5% of the allocated means. Measures covered by this goal can be co-financed for a maximum of 75% of the public expenditure.

The financial support of the Structural Funds and the Cohesion Fund is always granted on the basis of co-financing. The percentages can be reduced on the basis of the principle “the polluter pays” or when a project generates a financial income. It goes without saying that the Regulations concerning competition, environment and the granting of public assignment must be fulfilled.

Comitology

According to the EC-Treaty (article 202) it is the task of the European Commission to implement EU legislation. In practice this means that the Council must indicate in each implementation measure which implementing authority it gives to the Commission. The Treaty stipulates that the European Commission is thereby assisted by a committee. This is done through the so called comitology procedure.

The committees act as discussion panels. They consist of representatives of the Member States and are presided by the Commission. Thanks to these committees the Commission can deliberate with the national authorities, before they decide on implementation

measures. The aim is to attune these measures as good as possible to the reality in the country concerned.

The relations between the Commission and these committees are regulated in a decision of the Council from 1999, the so called comitology decision. This decision guarantees the European Parliament the right to control the implementation of the legislation which arises from the co-decision procedure. The Parliament can mention that it does not agree with proposals of the Commission, or possibly of the Council, when it is of the opinion that these proposals exceed the implementation authority.

The committees are classified according to their function:

- Advisory committees: they advise the Commission, which must take into account the advice as much as possible.
- Management committees: when eventually the measures determined by the Commission are not in accordance with the advice of a management committee, the Commission is bound to announce them to the Council, who can, within the term agreed in the base measure, take another decision with a qualified majority of votes cast.
- Regulatory committees: when eventually the measures intended by the Commission are not in accordance with the advice of a regulatory committee, the Commission is bound to announce them to the European Parliament. In this case, the Council can, within the term of no more than three months, give its approval for the measures, or make an amendment. When the Council does not take a decision, the Commission will establish implementation measures, unless the Council opposes. In this case the Commission can introduce a revised proposal, a complete new proposal or the same proposal.
- Regulatory committees with scrutiny: these committees must enable the Council and the Parliament to scrutinise measures of general tenor to change not essential parts of a through the co-decision procedure established decision, before they are accepted. Opposition from either will block the proposed measure. In this case the Commission can introduce a revised proposal or a new one.

The decision of the Council of 28 June 1999 has replaced the decision of 13 July 1987, it simplifies the earlier Regulation and

takes into account the introduction of the co-decision procedure (adjustment of the right of a say to the Parliament). It also made the committee procedure more transparent for the Parliament and for the public. The documents of the committees are more easily accessible for the citizens and are stored in a public register. Moreover the Parliament is informed thoroughly and regularly about the activities of the committees.

The decision from 1999 was replaced in July 2006 by a new decision, which introduces a new procedure for the execution of the implementation authorities: the regulatory procedure with scrutiny. With this procedure, the two branches of the legislative authority while scrutinising of the execution of the implementation authority adjudged to the Commission, are treated equally for matters which are covered by the co-decision procedure.

Committees and working groups

In all phases of the legislative procedure, committees are active, which support the institutions of the Community. These committees are composed of representatives of the sectors involved, of independent experts or of experts of the national public administrations. They make it possible that the Commission looks after the interests of the groups for which the possible legislation is intended. In total about 60 advisory committees exist for all sectors together. About half of that number deals with agricultural topics. Apart from that there are several working groups which do preparatory work for Coreper (Committee of Permanent Representatives).

The Committee of the Regions

The Committee of the Regions was established in 1992 by the Treaty of Maastricht and consists of 317 representatives, which are nominated unanimously by the Council for a period of four years, on the basis of a proposal by the Member States. The Committee of the Regions is the voice of regions and cities in the European Union. It is a consultative committee of representatives of local and regional authorities of the Union. It is a political assembly of holders of a regional or local electoral mandate serving the cause of European integration. Successive Treaties have broadened the Committee of the Regions' role. Since the Lisbon Treaty, the Committee of the Regions has to be consulted throughout the legislative process involving the European Parliament and the



Council of the European Union in the following areas: economic and social cohesion, trans-European networks, health, education and culture, employment, social policy, the environment, vocational training, transport, civil protection, climate change, energy and services of general interest.

Community acquis

The Community acquis is the body of common rights and obligations which bind all the Member States together within the European Union. It is constantly evolving and comprises the content, principles and political objectives of the Treaties, the legislation adopted in application of the treaties and the case law of the Court of Justice, the declarations and resolutions adopted by the Union, measures relating to the common foreign and security policy, measures relating to justice and home affairs and the international agreements concluded by the Community and those concluded by the Member States between themselves in the field of the Union's activities. Applicant countries have to accept the

Community acquis before they can join the Union. Derogations from the acquis are granted only in exceptional circumstances and are limited in scope. To integrate into the European Union, applicant countries will have to transpose the acquis into their national legislation and implement it from the moment of their accession.

Coreper

Coreper, the French acronym by which the Permanent Representatives Committee is known, consists of the Member States' Permanent Representatives (Ambassadors) and is responsible, at a stage involving preliminary negotiations, for assisting the Council of the European Union in dealing with the items on its agenda (proposals and drafts of instruments put forward by the Commission). It occupies a pivotal position in the Community decision-making system, in which it is at one and the same time a forum for dialogue (among the Permanent Representatives and between them and their respective national capitals) and a body which exercises political control (by laying down guidelines for, and supervising, the work of the expert groups).

Council of Ministers

The Council of Ministers is the most important decision body of the European Union. The Council determines the European policy based on proposals of the European Commission. The Council consists of 27 ministers (one per Member State), which meet according to their authority and in function of the files handled: e.g.; the 15 ministers of Agriculture, Transport and Finance.

Court of Justice of the European Union

The Court of Justice of the European Union is the highest court in the European Union in matters of European Union law. As a part of the Court of Justice of the European Union institution it is tasked with interpreting EU law and ensuring its equal application across all EU member states. The Court was established in 1952 and is based in Luxembourg. It is composed of one judge per member state – currently 27 – although it normally hears cases in panels of three, five or thirteen judges.

Customs Union

The Customs Union was completed in 1968 and was the main goal after the signing of the Treaty of Rome. The most important

measures consisted of:

- The abolition of all customs dues and trade limitations between the Member States;
- The setup of a common customs tariff which is applicable in the entire European Union on goods from third countries (the revenue from customs dues are a part of the own assets of the Community);
- The common trade policy as external element of the Customs Union.

Directive

An European Directive is a legislative instrument of the European Union. The Directive originates from article 288 of the Treaty of the functioning of the European Union. A Directive is binding as concerns the result. The aim of a Directive is to harmonise the legislation of the Member States of the European Union. When a Directive is issued by an institution of the European Community, then the Member States are bound to implement the Directive in their national legislation. In the Directive, a term is determined within which the Directive must be implemented. If the Member State did not implement the Directive within the time agreed, the Commission can start a juridical procedure against that Member State. This so called infraction procedure is lodged by the Court of Justice of the European Community.

In principle a Directive is only addressed to the Member States of the European Union. However, if a Member State was too late to implement the Directive, or if the Directive was not correctly implemented, a citizen can appeal directly to the Directive before a national court. This is possible when the stipulation of the Directive concerned is unconditional and accurate enough according to the jurisprudence of the European Court of Justice. Of course a citizen will only do that if he is sufficiently sure that the stipulation of the Directive will lead to a positive result for him. Obviously a Member State cannot (yet) appeal to an incorrectly implemented stipulation of a Directive against a citizen. This is known as the prohibition of reverse vertical effect. In this case the member State should have implemented the Directive correctly.

European Commission

The European Commission is an independent institution which is

responsible for the implementation of the European decisions. The Commission consists of 27 commissioners, appointed for 4 years (as from 1 November 2004, one per Member State). They formulate proposals to the Council concerning the European policy. The European Commission has the right to take legislative initiatives.

European Economic and Social Committee (EESC)

The European Economic and Social Committee was established in 1957 by the Treaty to form the European Economic Community, in order to represent the economic and social categories. The Committee consists of 317 members which are divided in three groups: employers, employees and representatives of specific activities (farmers, artisans, small and medium sized companies and industries, independent professions, consumer representatives, science and education, social economy, households and environmental movements). The members are unanimously appointed by the Council for a period of four years. The appointment is renewable for four years.

The EESC is consulted for the approval of a lot of decisions concerning the internal market, education, consumer protection, environment, regional development and on social matters. It can also advise on its own initiative. Since the Treaty of Amsterdam came into force in May 1999, the EESC must to be consulted on a larger number of topics (new employment policy, new social definitions, public health and equal opportunities). The EESC can be consulted by the European Parliament.

European Maritime Safety Agency (EMSA)

The European Maritime Safety Agency (EMSA) is a technical institution which provides the Union with the necessary means to act appropriately concerning the rules and Regulations for the safety at sea and for the prevention of maritime pollution by ships. The agency must assist the Commission with the continuous updating of the legislation concerned and must give the necessary support for an efficient implementation of this legislation in the whole of the Union.

The European Maritime Safety Agency (EMSA) was established on 27 June 2002 by Regulation 1406/2002. EMSA is based in Lisbon.

European Ombudsman

After every election, the European Parliament appoints an ombudsman. His mandate is valid for the legislature of the parliament. He is competent to note complaints from citizens of the Union or from physical or corporate bodies with quarters or head offices in a Member State, about cases of mismanagement of the Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance. When the ombudsman ascertains a case of mismanagement, he presents the case to the institution involved, he starts an investigation, looks for a solution of the problem and lodges a draft recommendation, to which the institution must answer within three months with a reasoned position. The ombudsman reports every year to the European Parliament.

European Parliament

The European Parliament consists of 736 directly elected members (5 years, 2009-2014): 22 Belgians + 99 Germans + 72 Frenchmen + 72 Britons + 72 Italians + 50 Spaniards + 13 Danes + 13 Finns + 22 Greeks + 12 Irish + 25 Dutch + 6 inhabitants of Luxembourg + 17 Austrians + 22 Portuguese + 18 Swedes + 6 Cypriotes + 22 Czechs + 6 Estonians + 22 Hungarians + 8 Latvians + 12 Lithuanians + 5 Maltese + 50 Poles + 13 Slovaks + 7 Slovenians + 17 Bulgarians + 33 Romanians.

The Parliament assembles every month in Strasbourg during one week (remainder of the time in Brussels). The secretariat-general is housed in Luxembourg.

Competence:

- Legislative competence, just as the Council of Ministers;
- Democratic control of the Commission;
- Votes on the budget, the European legislation and advises the Council, who decides.

European Regional Development Fund (ERDF)

The aim of the ERDF is to strengthen economic and social cohesion in the European Union by correcting imbalances between its regions. The ERDF finances direct aid to investments in companies (in particular SMEs) to create sustainable jobs, to infrastructures linked notably to research and innovation, tele-



communications, environment, energy and transport; to financial instruments (capital risk funds, local development funds, etc.) to support regional and local development and to foster cooperation between towns and regions and technical assistance measures. The ERDF also gives particular attention to specific territorial characteristics. ERDF action is designed to reduce economic, environmental and social problems in towns. Naturally disadvantaged areas geographically speaking (remote, mountainous or sparsely populated areas) benefit from special treatment. Lastly, the outermost areas also benefit from specific assistance from the ERDF to address possible disadvantages due to their remoteness.

Eurostat

Eurostat is an abbreviated name of the Statistical Office of the European Union. The Statistical Office is responsible for the gathering and the publication of statistical data about all European activities.

Green Paper

A Green Paper is a document with the aim to promote reflection on and to start a consultative procedure on a certain topic on a European level. A Green Paper is published by the European Commission. The deliberation which takes place on the occasion of a Green Paper may result in the publication of a White Paper, in which the results of the discussion are contained in the form of concrete actions of the Union.

Guideline

Guidelines are explanations and/or interpretations of European Regulations for a certain sector by the European Commission. Examples: (1) Guidelines for state aid to seaports (2) Guidelines for the application of environmental Regulations on port development.

INTERREG

INTERREG is an initiative to help the internal and external border regions of the European Union (financially) in order to help solve problems caused by the remoteness of those regions from the European Union and from the national centres.

LIFE

LIFE is a financial instrument for the environment. The general goal of LIFE is to contribute to the implementation, the updating and the development of the environmental policy of the Community and to the environmental legislation. LIFE aims at integrating the environmental aspects into other sectors of the policy on sustainable development in the Community.

LIFE consists of three thematic parts: LIFE-Nature, LIFE-Environment and LIFE-Third Countries. The projects financed by LIFE must fulfil the following conditions:

- They must be important for the Community and contribute to a large extent to the general goals of LIFE;
- They must be implemented by technically reliable and financially sound participants;
- They must be attainable as concerns the technical proposals, planning, budget and return on investment.

Priority can be granted to projects with a multinational intent, when the goals are thereby better reached, taking into account the

attainability and the costs. A specific goal of LIFE is to contribute to the implementation of the Birds and Habitat Directive. LIFE-environment must contribute to the development of innovative and integrated techniques and methods and to the further development of the environmental policy of the Community. LIFE-Third Countries aims at adjusting the environmental legislation in the candidate Member States.

Member States

1957: the six founders: Belgium, the Netherlands, Luxemburg, Germany, France, Italy

1973: Ireland, Denmark and the United Kingdom

1981: Greece

1986: Spain and Portugal

1995: Austria, Finland, Sweden (Norway did not join eventually)

1 May 2004: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

1 January 2007: Bulgaria and Romania.

Croatia will probably join the European Union in 2013

Presidency

2010: 1st half Spain - 2nd half Belgium

2011: 1st half Hungary - 2nd half Poland

2012: 1st half Denmark - 2nd half Cyprus

2013: 1st half Ireland - 2nd half Lithuania

2014: 1st half Greece - 2nd half Italy

2015: 1st half Latvia - 2nd half Luxemburg

2016: 1st half The Netherlands - 2nd half Slovakia

2017: 1st half Malta - 2nd half United Kingdom

2018: 1st half Estonia - 2nd half Bulgaria

2019: 1st half Austria - 2nd half Romania

Proportionality

The principle of proportionality regulates the exercise of powers by the European Union. It seeks to set actions taken by the institutions of the Union within specified bounds. Under this rule, the involvement of the institutions must be limited to what is necessary to achieve the objectives of the Treaties. In other words, the content and form of the action must be in keeping with the aim pursued.

Recommendation

A Recommendation is a legal instrument that encourages those to whom it is addressed to act in a particular way without being binding on them. A recommendation enables the Commission (or the Council) to establish non-binding rules for the Member States or, in certain cases, for Union citizens.

Regulation

A Regulation is the most stringent form of legislation, containing detailed instructions which are in force in the entire European Union and which are immediately binding in all Member States.

Schengen-agreement / Convention implementing the Schengen-agreement / Schengen-acquis

The Schengen agreement aims at partly abolishing the border controls at the common borders and the creation of an arrangement for free circulation for all persons who are nationals of the states who signed the agreement or of the other member states of the Community and of third countries. The agreement was approved on 14 June 1985 in Schengen by Belgium, Germany, France, Luxembourg and the Netherlands. On 19 June 1990, before the Schengen Agreement had been implemented, the same five states signed a Convention implementing the Schengen-agreement. It was this Convention that created the Schengen Area by the complete abolition of border controls between Schengen states, common rules on visas, and police and judicial cooperation.

The Schengen Area was extended in the course of the years: Italy joined in 1990, Spain and Portugal in 1991, Greece in 1992, Austria in 1995 and Denmark, Finland and Sweden in 1996. Iceland and Norway are also part of the agreement.

Structural Funds and Cohesion Funds

Structural Funds and Cohesion Funds are a part of the structural policy of the Community, aiming at reducing the differences in development between the regions and between member States of the European Union. In this way the funds contribute to achieving the goals concerning economic and social integration. There are four structural funds which finance different projects and initiatives such as for example infrastructure works, investments that create employment, training programmes, rural development,

modernising the fishing sector and the diversification of the regions depending on the fishing industry. The Cohesion Fund aims at strengthening the structural policy. The aim of this fund is to help finance environmental and transport infrastructure projects.

Subsidiarity

The principle of subsidiarity ensures that decisions are taken as closely as possible to the citizen and that constant checks are made to verify that action at Union level is justified in light of the possibilities available at national, regional or local level. Specifically, it is the principle whereby the Union does not take action (except in the areas that fall within its exclusive competence), unless it is more effective than action taken at national, regional or local level. It is closely bound up with the principle of proportionality, which requires that any action by the Union should not go beyond what is necessary to achieve the objectives of the Treaties.

Treaty of Europe

The Treaty of Europe is the foundation treaty of the European Community (for a consolidated version, see TOE-001). The European Union was founded later (for a consolidated version, see TOE-002).

Some relevant documents

- *TOE-002 : Consolidated version of the Treaty concerning the European Union (European Union)*
- *TOE-001 : Consolidated version of the Treaty establishing the European Community (European Community)*

Download: www.flemishportcommission.be/harbourlight

White Paper

White Papers, which are published by the Commission, are documents with proposals for community actions on certain topics. Sometimes a White Paper is a continuation of a Green Paper, which intends to start a consultation procedure on a European level. When a White Paper is received positively by the Council, a community action programme may be made up.

Annex 2: Procedures

The co-decision procedure **General setting**

Initially the decision procedures of the European Community were almost entirely agreed upon by the members of the governments represented in the Council. The European Parliament had only a minor stake in the decision procedures. With the Treaty of Amsterdam, the co-decision procedure became general legislative procedure in the legislation, whereby the democratic element in the legislation of the European Community was strengthened.

For the promulgation of general binding Decisions, Regulations and Directives, there are four procedures: the consultation procedure, the cooperation procedure, the co-decision procedure and the assent procedure. The co-decision procedure is by far the most important procedure. Therefore we concentrate only on the latter.

Whereas the Council could bypass the advices of the European Parliament in the cooperation procedure with unanimity, Council and Parliament fight with equal weapons since the introduction of the co-decision procedure, as agreed upon in the Treaty of Amsterdam. In this procedure the Council is forbidden to ratify its position after the failure of the consultation procedure. In this way the pressure is increased to reach an agreement in the co-decision procedure, if not the legislative process will fail.

In a simplified way we can say that the co-decision procedure proceeds in following phases:

First reading: the starting point here is the proposal of the Commission, which was sent to the Council, the European Parliament and possibly also to committees that had to be consulted. The European Parliament treats this proposal in first reading and advises to the Council. In this phase the European Economic and Social Committee and the European Committee for the Regions have the opportunity to give advice.

When the European Parliament amends the proposal of the Commission, or when the Council adopts all amendments of the European Parliament; the Council can already adopt the decision



in this phase of the procedure. Otherwise the second reading in the European Parliament is being prepared.

Second reading: The Council lays down with a qualified majority a position on the basis of the proposal of the Commission, the advice of the European Parliament as well as on its own vision. The Council's position is treated in the European Parliament in second reading. Thereupon the European Parliament has, within a period of three months, three possibilities:

- (1) If the European Parliament approves the position of the Council or has not taken a decision within three months, the act shall be deemed to have been adopted in the wording which corresponds to the position of the Council.

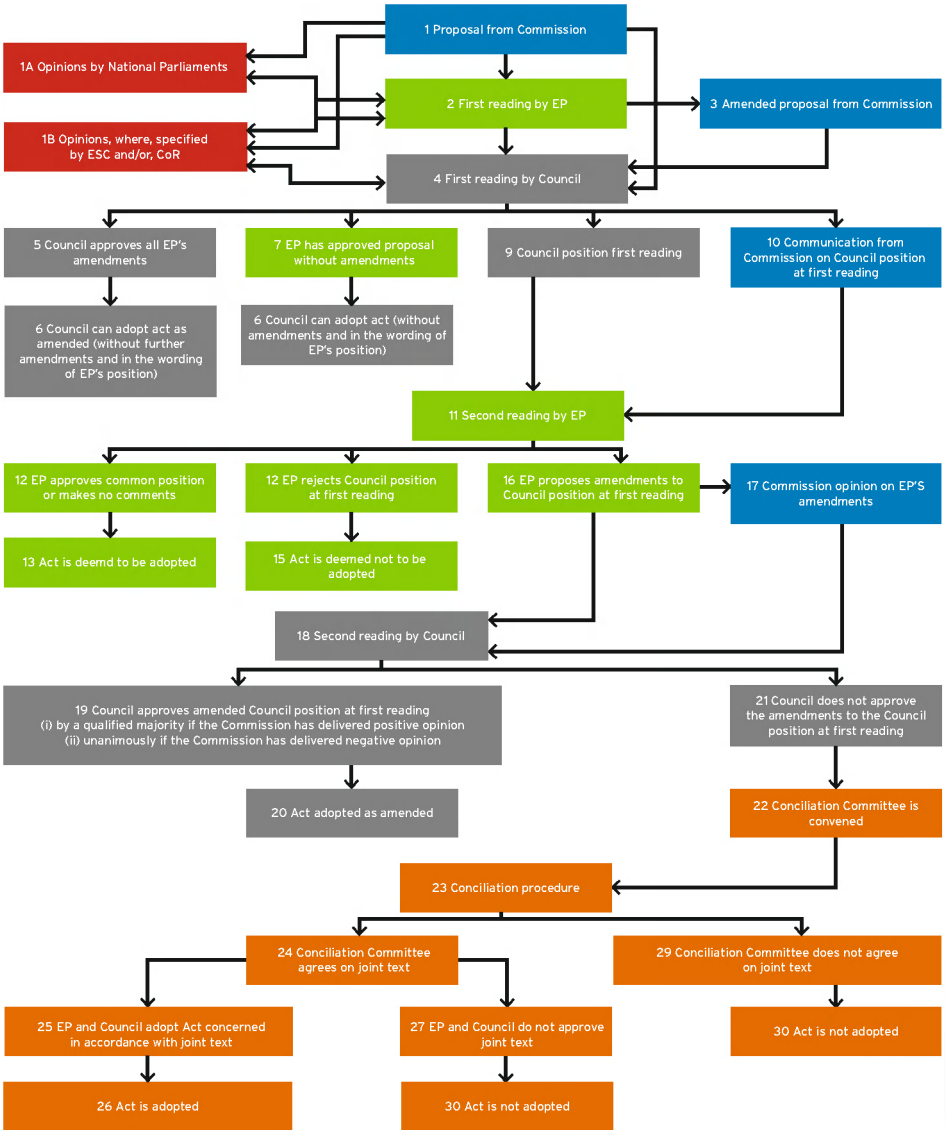
- (2) If the European Parliament rejects the Council's position broadly (which is only possible with an absolute majority of the votes of the members of the European Parliament), the legislative procedure ends.
- (3) If the European Parliament amends the Council's position, following procedure starts:

Firstly the Council has the possibility to accept the Council's position, amended by the European Parliament. In this case the Council must adopt all amendments of the European Parliament. On the other hand, if the Council rejects separate amendments, or if there is no necessary majority for the adoption of the amendments (e.g. unanimity of votes cast when the Commission gave a negative advice about the proposed amendments of the European Parliament), then the chairman of the Council must, with the approval of the chairman of the European Parliament, summon the Conciliation Committee. The Conciliation Committee consists of fifteen equivalent representatives of the Council and of fifteen equivalent representatives of the European Parliament. The theme of the conciliation procedure is the Council's position on the bases of the amendment proposals of the European Parliament. The purpose of the conciliation procedure is to find a solid compromise which will find a necessary majority in the Council and in the European Parliament.

When the Conciliation Committee approves a joint draft of a decision, the Council and the European Parliament must sanction the result of the third reading within six weeks. In the Council, a qualified majority suffices, independent of the position of the Commission to the draft of the compromise (provided that the Treaty dictates unanimity of votes for the decision). The European Parliament acts by an absolute majority of the votes cast. The decision concerned applies as issued by the European Parliament and the Council, which is clearly mentioned in the title of the decision (e.g. Regulation of the European Parliament and the Council).

If the reconciliation procedure fails, the proposed decision is not accepted and the legislative procedure is ended.

Figure: Co-decision procedure



Colophon

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Technical details

Cover paper: 270 grams 1-sided
SBS-Board (FSC)
Innerwork paper: 100 grams
woodfree silk coated paper (FSC)

Legal deposit

Belgium: WD/2012/4665/2

Harbour Light is produced
by DeltaHage according to ISO 14001
(international standard for
environmental management systems)



References

For the compilation of this Guide Internet sources were frequently used. The update extends until August 2012.

European Sea Ports Organisation

The European Sea Ports Organisation was founded in 1993. It represents the port authorities, port associations and port administrations of the seaports of the Member States of the European Union and Norway. ESPO has also observer members in several neighbouring countries to the EU. The European Union simply cannot function without its seaports. 90 % of Europe's cargo trade in goods passes through the more than 1200 seaports existing in the 22 maritime Member States of the EU and more than 400 million passengers pass through Europe's ports every year using ferry and cruise services.

ESPO ensures that seaports have a clear voice in the European Union. The organisation promotes the common interests of its members throughout Europe and is also engaged in dialogue with European stakeholders in the Port and Maritime sector. ESPO works through a permanent secretariat in Brussels, a General Assembly, an Executive Committee, and 8 specialised committees.

More info can be found on:
<http://www.espo.be>

Flemish Port Commission

The Flemish Port Commission (FPC, or, in dutch, "Vlaamse Havencommissie") advises on the port policy of Flanders. The Flemish Parliament, the Flemish Government and the competent Minister can ask the Port Commission for advice. The Port Commission can also act on its own initiative by issuing recommendations. The Flemish Port Commission is made up of four groups of members: employers' and employees' organisations, the ports of Flanders (Antwerp, Ghent, Zeebrugge and Ostend) and the transport sector. The FPC advises on port policy, port infrastructure, draft decrees, draft resolutions, policy documents relating to port policy and other port related topics.

The FPC secretariat provides information through reports and the website, focusing on:

- gathering statistics about the ports of Flanders and European ports
- monitoring developments in European ports and the European transport policy

More info can be found on:
www.flemishportcommission.be

